

94-512-561A

499



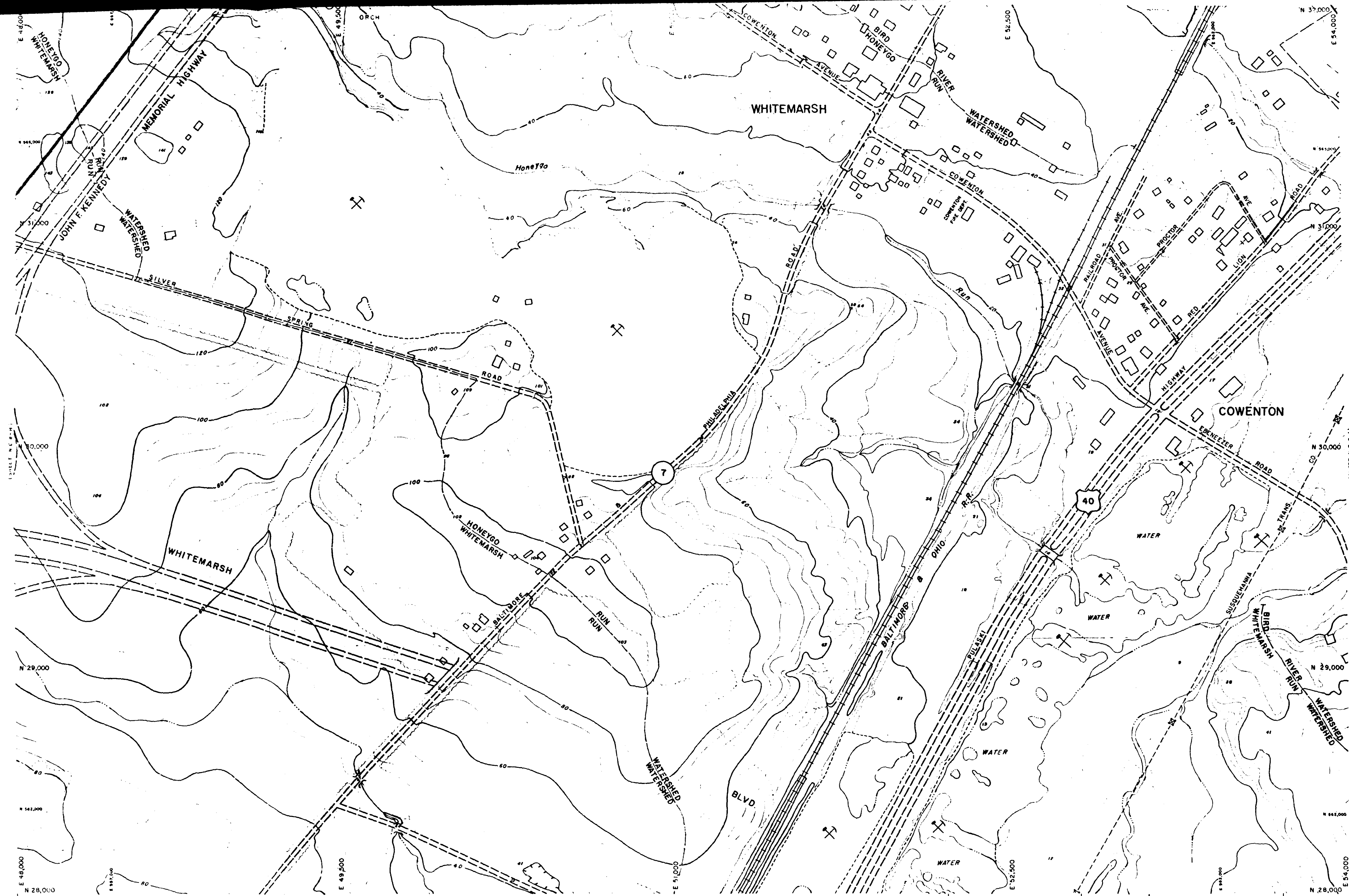
M - SE
M - NE

THIS MAP HAS BEEN REVISED IN SELECTED AREAS.
TOPOGRAPHY COMPILED BY PHOTOGRAMMETRIC METHODS
BY BUCHART-HORN, INC. BALTIMORE, MD. 21210

BALTIMORE COUNTY OFFICE OF PLANNING AND ZONING OFFICIAL ZONING MAP

1992 COMPREHENSIVE ZONING MAP
Adopted by the Baltimore County Council
Oct. 15, 1992
Chairman, County Council

SCALE 1" = 200'±	LOCATION WHITE MARSH COWENTON	SHEET N. E. 8-1
DATE OF PHOTOGRAPHY JANUARY 1986		



PHOTOGRAMMETRIC MAP OF
BALTIMORE COUNTY METROPOLITAN AREA

REVISIONS

BY	DATE
1951	8-14-51

SCALE

1" = 200'
DATE OF PHOTOGRAPHY
APRIL 1953

LOCATION

WHITE MARSH
COWENTON

SHEET

N. E.
8-I

Topography Compiled By Photogrammetric Methods
AERO SERVICE CORPORATION-PHILADELPHIA, PA.

W
M
A

WHITE MARSH CIVIC ASSOCIATION

P.O. Box 314
White Marsh, Maryland 21162

August 11, 1994
To the Zoning Hearing Officer:

Re: Case #94-512-SPHA

In the Red Lion Rd., Ebenezer Rd. and Philadelphia Rd. areas, the community is being over-run with changes in zoning that are having a severe impact on the community.

The area is essentially residential with homes occupied by older citizens. This has been their home for many years and they cannot afford to move elsewhere. If the environmentalist can protect an owl or a rare species of toad, why can't we protect our older citizens from the actions of others.

The community has had to fight a rubble landfill at Honeygo Run and Philadelphia Rd.. Recently on Red Lion Rd., a developer has proposed a Sports Complex and a golf driving range. Red Lion Road is a narrow country road that was not designed to handle heavy traffic or trucks. What new project will someone develop to harass the community?

The White Marsh Civic Association would like to go on record as opposing any further encroachment on residential zoning in the Red Lion Road area. The association opposes the granting of any variance or special exception to the petitioner. The zoning law states that there are certain requirements that must be met in order to make an M/L use of the property and in all fairness to the community, they should be met. The petitioner has already shown disregard for his neighbors by being cited for violation of certain zoning regulations. What guarantee will the community have that the petitioner will not continue to commit violations of the zoning laws? The property is in a residential community and close to a church.

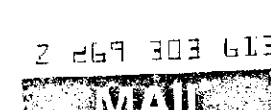
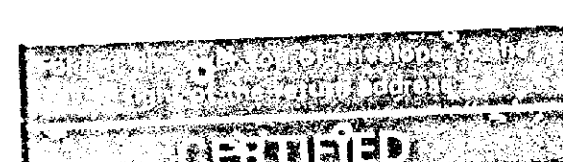
We urge the zoning hearing officer to consider the impact that this operation will have on the community and not grant a variance.

Sincerely,

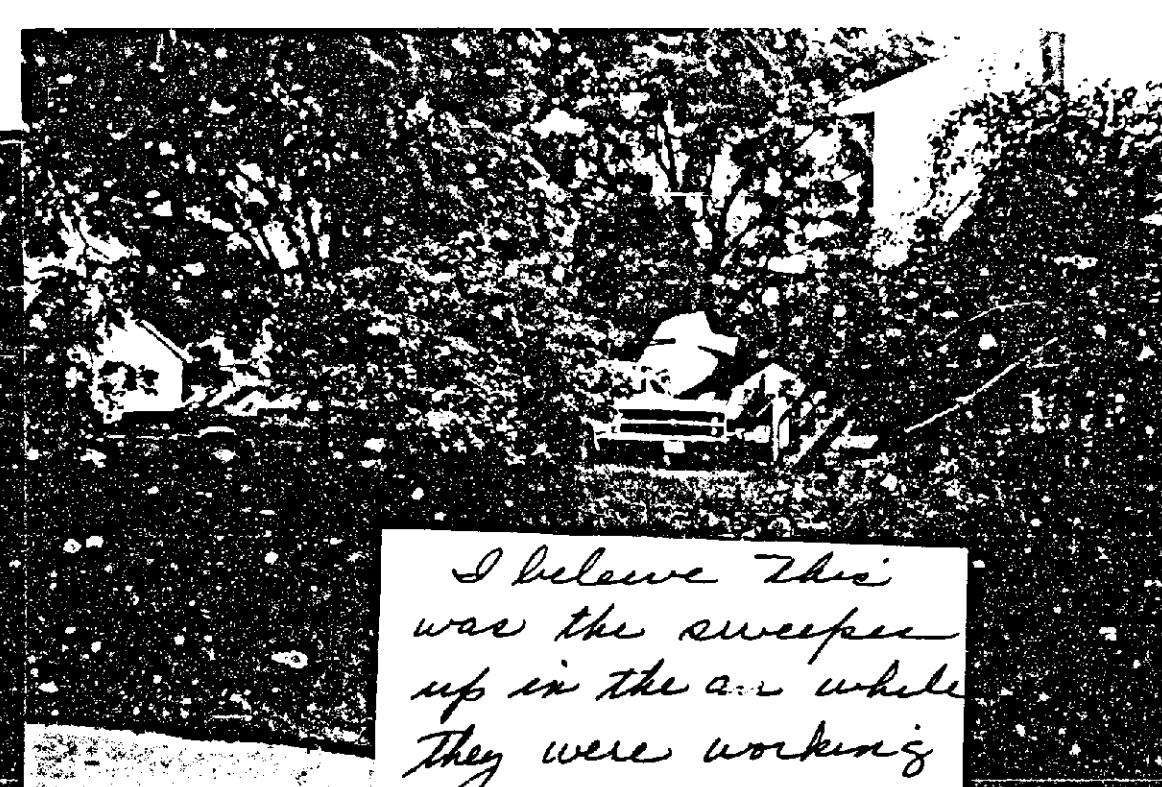
Sarah F. Paul
Sarah F. Paul
President

PROTESTANTS
EXHIBIT NO. 1

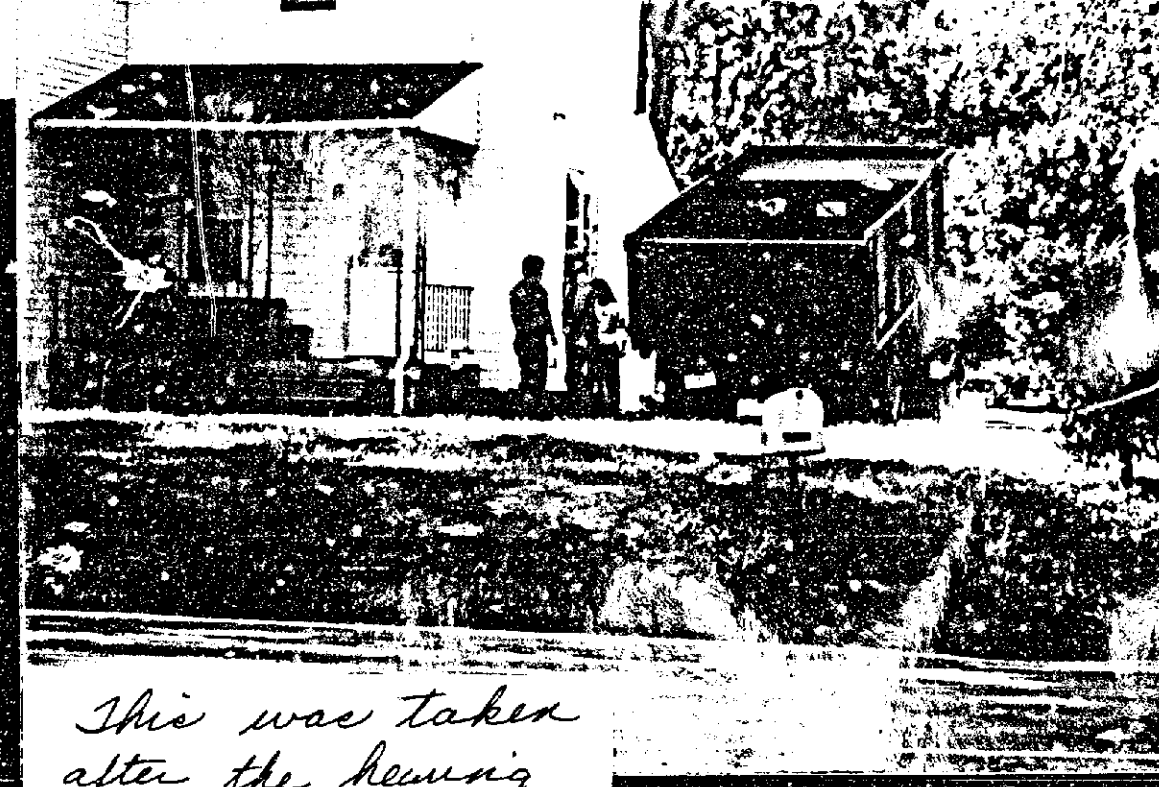
Norma Lee Kellner
10907 Red Lion Road
White Marsh, MD 21162



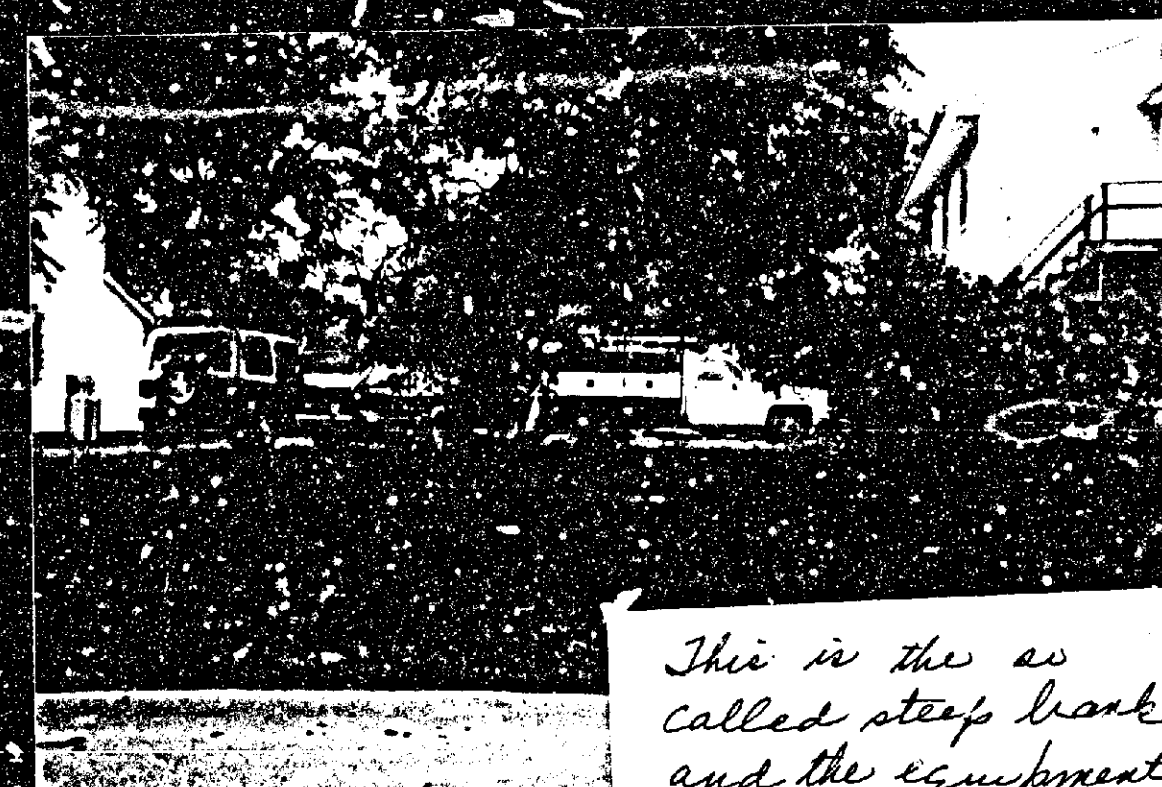
Mr. Laurence E. Schmidt
Zoning Commissioner
Office of Planning & Zoning
Suite 112 Courthouse
Towson, MD 21204



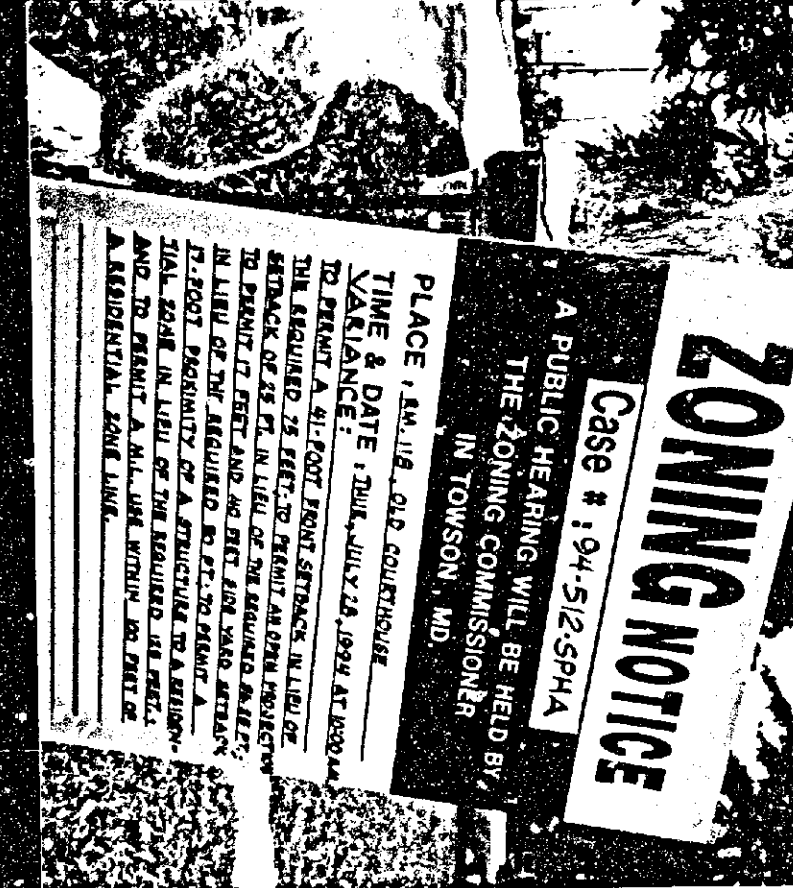
I believe this was the sweeper up in the air while they were working on it 8-5-94
All pictures were taken when there was to be no commercial activity on the property



This was taken after the hearing decision was rendered and I had been notified in the mail also this shows part of the steep bank on the property - Taken Sept 20, 1994



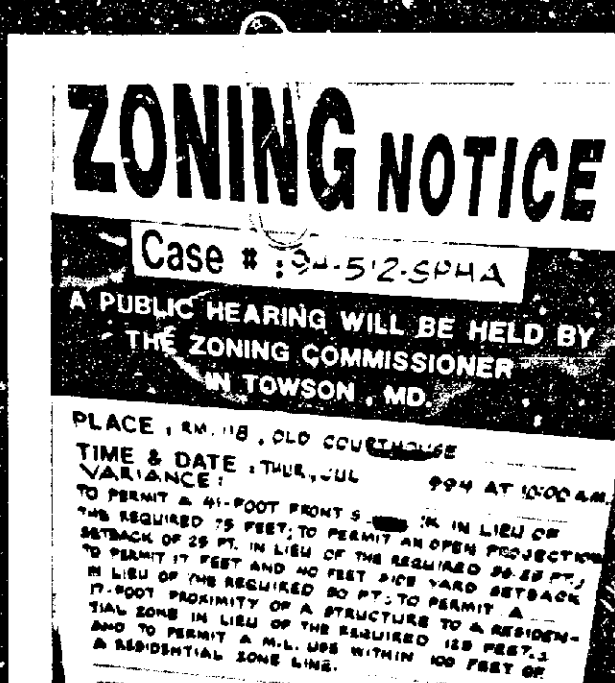
This is the so called steep bank and the equipment that is not parked between the front of the garage & Red Lion Rd.



I believe this sign was posted 7-14-94



Set back No 2



This picture was taken 7-18-94
date was changed to July 20th - was written so light that it did not show up in picture
day was not change
it should have been Wed. July 20 1994



NO.	DATE	REVISIONS	DESCRIPTION	CHK
1	5-6-94	ADD	ADDITIONAL NOTES	
2	5-17-94	SPECIAL	ADDITIONAL NOTES	
3	6-15-94	ADD	ADDITIONAL NOTES	

LEGEND
☒ AREA OF EASEMENT
☒ IMPROVED SURFACE
☒ UTILITY POLE
☒ FIRE HYDRANT

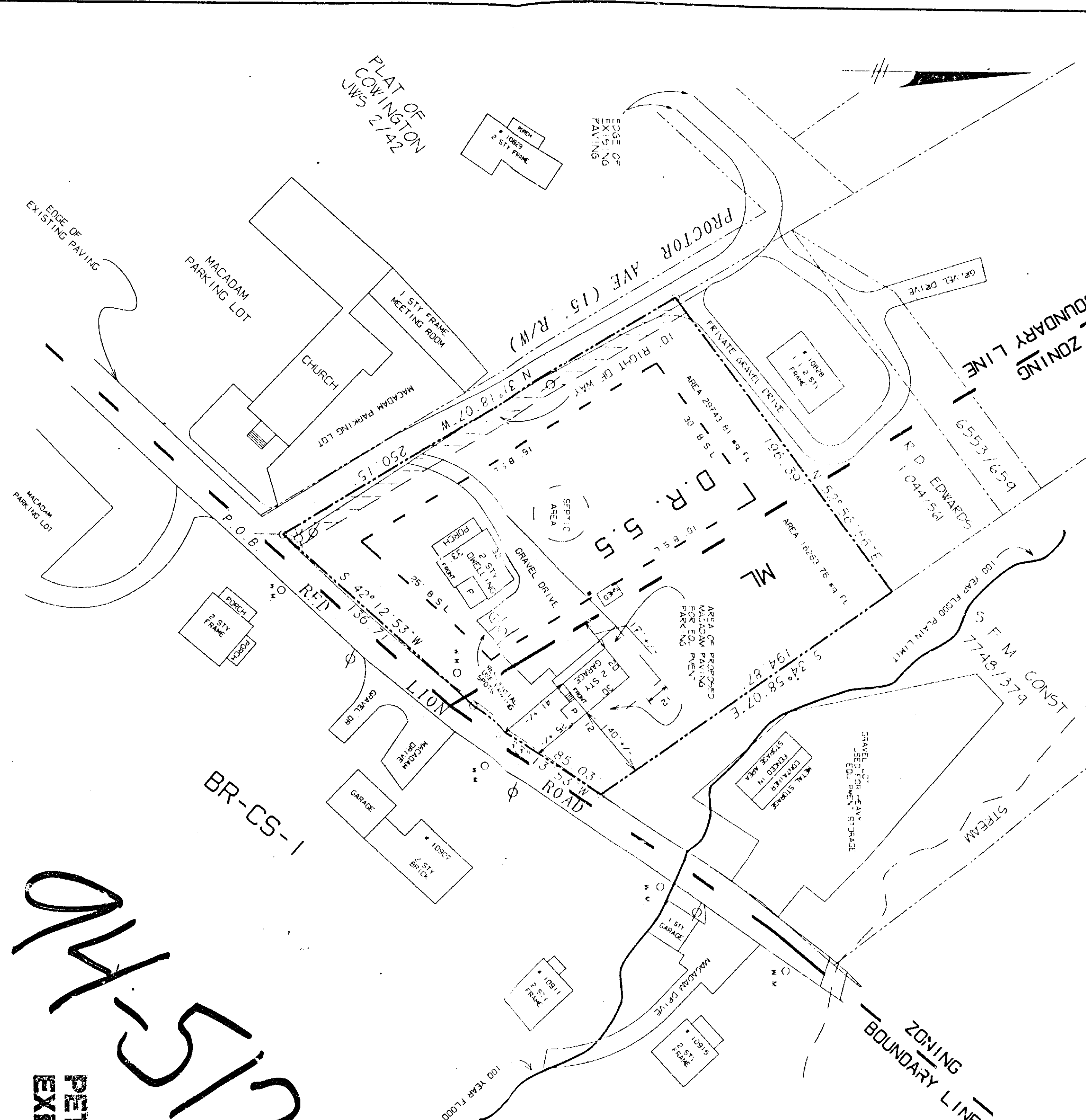
THIS SURVEY AND PLAT WERE PREPARED BY A LICENSED SURVEYOR AND REGISTERED LAND SURVEYOR IN THE STATE OF MARYLAND UNDER THE PROFESSIONAL SEAL OF THE SURVEYOR.

6/15/94
RE: NO. 575

SCALE: 1"=40'
6/15/94
JOB # 554

PETITIONER'S
EXHIBIT NO. 1
94-512-SPHA

NOTES
1. OWNER: FRANK'S MOWING
10928 RED LION ROAD
BALTIMORE, MARYLAND 21162
(410) 732-5229
2. DEED REFERENCE: 7344/201
3. PROPERTY ZONED: DP 5.5 AND ML
4. TOTAL AREA OF TRACT: 1.057 ACRES
5. PROPERTY HAS ACCESS TO PUBLIC WATER AND SEPTIC AREA AS SHOWN
6. F.A.R. OF M.L. SECTION OF PROPERTY: 0.062
7. NO PRIOR ZONING HEARINGS
8. PROPOSED NEW MACADAM PAVING: 12' X 12' AROUND REAR AND SIDE OF 2 STY. GARAGE
9. NO EMPLOYEES ARE IN THE M.L. BUILDING, 11' X 5' USE: 3' FOR LIGHT CONVEYOR EQUIPMENT STORAGE
ACCESS TO THE M.L. PARCEL IS ONLY POSSIBLE THROUGH THE DR 3.5 DRIVE WAY. DUE TO THE REQUESTED TO PERMIT THIS SPECIAL HEARING SECTION 102.6.4.3 OF THE ZONING OFFICE POLICY MANUAL.
11. SEEKING VARIANCE OF SECTION 243.1 AND 301.1 OF THE ZONING OFFICE POLICY MANUAL TO PERMIT THE PETITIONER TO MAKE AN M/L USE OF THE PROPERTY IN THE RED LION ROAD AREA. THE PETITIONER HAS ALREADY SHOWN DISREGARD FOR HIS NEIGHBORS BY BEING CITED FOR VIOLATION OF CERTAIN ZONING REGULATIONS. WHAT GUARANTEE WILL THE COMMUNITY HAVE THAT THE PETITIONER WILL NOT CONTINUE TO COMMIT VIOLATIONS OF THE ZONING LAWS? THE PROPERTY IS IN A RESIDENTIAL COMMUNITY AND CLOSE TO A CHURCH.
12. SEEKING VARIANCE OF SECTION 243.2 OF B.C.2.R. FOR A 17' AND 4.40' SIDE YARD SET BACK IN LIEU OF THE REQUIRED 50'.
13. SEEKING VARIANCE OF SECTION 243.4 AND 253.4 STRIPING OF 2' R. FOR A 17' PROXIMITY OF 1.05' THE REQUIRED 1.95' AND A M. USE WITHIN 100' OF A RESIDENTIAL ZONE LINE.
14. NOT IN C.B.C.A.
15. NO PUBLIC UTILITIES PROPOSED FOR THE M.L. ZONED USE.
16. NO SIGNS ARE EXISTING OR PROPOSED



RE: PETITION FOR SPECIAL HEARING * BEFORE THE
PETITION FOR VARIANCE * ZONING COMMISSIONER
10928 Red Lion Road, N/S Red Lion *
Road at Proctor Avenue, 11th Elec- *
tion District, 5th Councilmanic * FOR BALTIMORE COUNTY
Francis Midwig * CASE NO.: 94-512-SPHA
Petitioner * * * * *

ENTRY OF APPEARANCE

Please enter the appearance of the People's Counsel in the above-captioned matter. Notice should be sent of any hearing dates or other proceedings in this matter and of the passage of any preliminary or final order.

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

CAROLE S. DEMILIO
Deputy People's Counsel
Room 47, Courthouse
400 Washington Avenue
Towson, MD 21204
(410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 19th day of June, 1994, a copy of the foregoing Entry of Appearance was mailed to T. Wray McCurdy, Esquire, 101 Eastern Boulevard, Baltimore, MD 21220, attorney for Petitioner.

PETER MAX ZIMMERMAN

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning



October 13, 1994

Suite 112 Courthouse
400 Washington Avenue
Towson, MD 21204

(410) 887-4386

Ms. Norma Lee Kellner
10907 Red Lion Road
White Marsh, Maryland 21162

RE: Case No. 94-512-SPHA
Frances Midwig

Dear Ms. Kellner:

This is in response to your letter of September 28, 1994 and our recent telephone conversation.

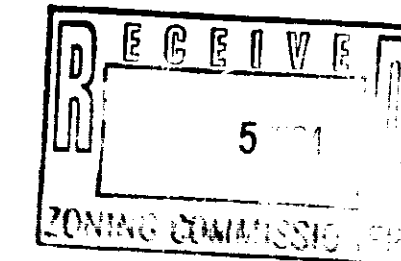
I regret if I mis-characterized your testimony regarding the school bus business which formerly operated in this vicinity. My notes of the testimony taken indicated that the testimony was that, at one time, a school bus business was located on the subject property. I either misunderstood your testimony or it was not made clear that the business was not operated from that site. In any event, that business location is not significant when considering the present and proposed operations on the Midwig property.

Moreover, your letter is erroneous within its discussion of activity which is permitted on the site during the 30 day appeal time. During that period, any lawful activity can be conducted on the property. Moreover, the Petitioner may conduct activities as allowed within the zoning order. As pointed out within restriction No. 1 of my Order, the Petitioner is warned that any alteration of the property or utilization of same in a manner consistent with the Order during the 30 day appeal period is subject to reversal by the Baltimore County Board of Appeals.

Further, as no doubt, your counsel advised you, and we discussed by telephone, any person dissatisfied with my decision has the right to appeal same to the County Board of Appeals. Such an appeal must be instituted within 30 days of the date of the decision. If an appeal is filed, the County Board of Appeals will conduct a new hearing and consider the case without regard to the decision which I made in this matter. I urge you to file such an appeal if you believe that my decision is erroneous.

Printed with Soybean Ink
on Recycled Paper

September 28, 1994



Mr. Laurence E. Schmidt
Zoning Commissioner
Office of Planning and Zoning
Suite 112 Courthouse
Towson, MD 21204

RE: Case No. 94-512-SPHA

Dear Sir:

I would like to make it a matter of record that I was misquoted in "Findings Of Fact and Conclusions Of Law". I was quoted as saying that a school bus business was operated off of the subject site several years ago -- I did not say that! What I said is "I owned a school bus company, but it was located in another area legally zoned to operate that business. The subject property has never been used for commercial purposes. The barn that was located on the subject property never housed anything but a farm tractor which was never used by the Alexander-Midwig family. Also, the barn deteriorated and was torn down many years before the new garage was built. The old barn never housed any equipment. The new garage was built with dubious permits and the ML property is located within 300 feet of wetlands, which no Baltimore County organization seems to have checked out.

Also, I would like to state that some time after the hearing of August 12, 1994, for a period of 2 weeks including Labor Day, the premises were used for commercial activity. Constantly trucks came in and out, and repair work was done on a daily basis. They did repair work most of the day on Labor Day which was a holiday.

Also, since the decision was rendered in Case No. 94-512-SPHA -- it was my understanding that they were not to proceed until the appeal period was up in 30 days. On Sunday, September 18, 1994 at 10:15 A.M., they were using power equipment doing repair work and it was making quite a bit of noise. I was in my house with the TV on, and I could barely hear my TV. At 3:50 P.M. on Tuesday, September 20, 1994 there were two trucks in the yard. One was a stake body truck unloading items and the other was a dump truck which was being cleaned and hosed down. I was not the only one to see this. Two other people observed it. Please see the pictures enclosed. A dump truck was never listed as one of the pieces of equipment to be stored on the property. Norman Midwig's statement that, "there would not be any storage of vehicles between the front of the garage and Red Lion Road" has proven to be false. The dump truck is between the front of

GIVEN

PLEASE RESET CASE AND REPOST
PROPERTY. NOTIFY ATTORNEYS (McCurdy)
& (NEWSTEIN) BY MAIL TOO!

CASE WAS SET ORIGINALLY FOR
7/19/94. AD IN TELEVISION
WAS OK BUT SIGN WAS WRONG (7/25/94)
McCurdy THEN ASKED FOR POSTPONEMENT
WHICH WAS GRANTED TO 7/10 BUT
SIGN NOT CHANGED PROMPTLY.

I postponed at hearing as all
parties might not be present.
Reset + Repost, NO COST TO
Petitioner. Advise attys by
mail too!

JES

IMPORTANT MESSAGE	
TO: <u>94-512-SPHA</u>	DATE: <u>10/18/94</u> TIME: <u>11:00</u> A.M.
FROM: <u>Norma Kellner</u>	
PHONE: <u>835-8838</u>	
FAX: <u></u>	
TELEPHONED: <u></u>	PLEASE CALL: <u></u>
CAME TO SEE YOU: <u></u>	RETURNED YOUR CALL: <u></u>
WANTS TO SEE YOU: <u></u>	WILL CALL AGAIN: <u></u>
WILL FAX YOU: <u></u>	URGENT: <u></u>
Message: <u>Frances Midwig</u>	
Signed: <u>Norma Kellner</u>	

SUTTON, McCURDY, AND STONE, P.A.

ATTORNEYS AT LAW
111 WEST CHESAPEAKE AVENUE
TOWSON, MD 21204

WILLIAM R. SUTTON (Retired)

June 28, 1994

Baltimore County Government
Office of Zoning Administration
and Development Management
111 West Chesapeake Avenue
Towson, MD 21204

Attention: Arnold Jablon, Director

RE: Case Number: 94-512-SPHA (Item 498)
10928 Red Lion Road
N/S Red Lion Road at Proctor Avenue
11th Election District - 5th Councilmanic
Petitioner: Francis Midwig
Hearing Date: Tuesday, July 19, 1994 at 11:00 a.m.
Room 118, Old Courthouse

Dear Mr. Jablon:

The purpose of this correspondence is to respectfully request a continuance of the hearing now scheduled for July 19, 1994 concerning the above referenced for reason that I have a prior commitment before the Circuit Court for Baltimore County with State vs. Anderson, case number 93CR4396, scheduled for the same date at 9:15 a.m. I am enclosing a copy of the court notice for your records.

Kindly advise this office promptly your decision in reference to this request, and to avoid further postponements, please call my office to reschedule this hearing date.

Thank you for cooperation in reference to this request.

Very truly yours,

T. Wray McCurdy

TWM/bsb

Enclosures

RECEIVED
JUN 29 1994

ZADM

PLEASE PRINT CLEARLY

PETITIONER(S) SIGN-IN SHEET

NAME	ADDRESS
FRANCES MIDWIG	917 N. TRIS AVE. BALTA, MD 21205
DAVID R. MIDWIG	10928 Red Lion Rd. 21162
NORMAN MIDWIG	945 LANCE AVE. 21221
BRIAN DIETZ	41 EAST SHIP RD. 21222
LORENE HASTINGS	" " " "

PLEASE PRINT CLEARLY

PETITIONER(S) SIGN-IN SHEET

NAME	ADDRESS
T. Wray McCurdy	101 E. Union Blvd 21221
Norman Midwig	945 Lance Ave
Margaret Horner	885 Suburban Pl.
FRANCES MIDWIG	917 N. TRIS AVE. 21205
LISA MIDWIG	945 Lance Avenue 21221
DAVID MIDWIG	10928 Red Lion Rd. 21162

PLEASE PRINT CLEARLY

PROTESTANT(S) SIGN-IN SHEET

NAME	ADDRESS
Norma Lee Kellner	10907 Red Lion Rd.
SARAH E. PAUL	White Marsh, Md. 21162
ADAM E. PAUL SR.	10404 VINCENTA FARM LN
George S. Kellner	WHITE MARSH, MD 21162
Norman Midwig	10907 Red Lion Rd. 21162
Norman Lowenstein, City	809 Eastern Blvd - 21221

PLEASE PRINT CLEARLY

PROTESTANT(S) SIGN-IN SHEET

NAME	ADDRESS
NORMA KELLNER	10907 RED LION RD.
Norma Kellner	WHITE MARSH, MD 21162
GEORGE S. KELLNER	10907 Red Lion Rd.
George S. Kellner	70 White Marsh Ave 21162
Norman Lowenstein, City	809 Eastern Blvd 21221

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204

Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 94-512-SPHA (Item 498)
10928 Red Lion Road
N/S Red Lion Road at Proctor Avenue
11th Election District - 5th Councilmanic
Petitioner(s): Francis Medwig
HEARING DATE: TUESDAY, JULY 19, 1994 at 11:00 a.m., Rm. 118, Old Courthouse

Special Hearing to permit access to the M.L. parcel through the D.R.-5.5 driveway. Variance to permit a 41-foot front setback in lieu of the required 75 feet; to permit an open projection setback of 25 feet in lieu of the required 56.25 feet; to permit 17 feet and 40 feet side yard setbacks in lieu of the required 50 feet; to permit a 17-foot proximity of a structure to a residential zone in lieu of the required 125 feet; and to permit a M.L. use within 100 feet of a residential zone line.

Arnold Jablon
Director

cc: Francis Medwig
T. Wray McCurdy, Esquire

NOTES: (1) ZONING SIGN & POST MUST BE RETURNED TO RM. 104, 111 W. CHESAPEAKE AVENUE ON THE HEARING DATE.
(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.
(3) FOR INFORMATION CONCERNING THE FILING AND/OR HEARING, CONTACT THIS OFFICE AT 887-3391.

July 5, 1994

NOTICE OF REASSIGNMENT

CASE NUMBER: 94-512-SPHA (Item 498)
10928 Red Lion Road
N/S Red Lion Road at Proctor Avenue
11th Election District - 5th Councilmanic
Petitioner(s): Francis Medwig
HEARING DATE: WED., JULY 20, 1994 at 10:00 a.m., Rm. 118 Old Courthouse

Special Hearing to permit access to the M.L. parcel through the D.R.-5.5 driveway. Variance to permit a 41-foot front setback in lieu of the required 75 feet; to permit an open projection setback of 25 feet in lieu of the required 56.25 feet; to permit 17 feet and 40 feet side yard setbacks in lieu of the required 50 feet; to permit a 17-foot proximity of a structure to a residential zone in lieu of the required 125 feet; and to permit a M.L. use within 100 feet of a residential zone line.

Arnold Jablon
ARNOLD JABLON
DIRECTOR

cc: Frances Medwig
T. Wray McCurdy, Esquire

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on Recycled Paper

July 25, 1994

NOTICE OF REASSIGNMENT

CASE NUMBER: 94-512-SPHA (Item 498)
10928 Red Lion Road
N/S Red Lion Road at Proctor Avenue
11th Election District - 5th Councilmanic
Petitioner(s): Francis Medwig

Special Hearing to permit access to the M.L. parcel through the D.R.-5.5 driveway. Variance to permit a 41-foot front setback in lieu of the required 75 feet; to permit an open projection setback of 25 feet in lieu of the required 56.25 feet; to permit 17 feet and 40 feet side yard setbacks in lieu of the required 50 feet; to permit a 17-foot proximity of a structure to a residential zone in lieu of the required 125 feet; and to permit a M.L. use within 100 feet of a residential zone line.

HEARING DATE: FRIDAY, AUGUST 12, 1994 at 9:00 a.m. Rm. 106 County Office Bldg.

Arnold Jablon
ARNOLD JABLON
DIRECTOR

cc: Francis Medwig
T. Wray McCurdy, Esq.
Norman Lauenstein, Esq.
Norma and George Kellner

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on Recycled Paper

July 6, 1994

T. Wray McCurdy, Esquire
101 Eastern Boulevard
Baltimore, Maryland 21220

RE: Case No. 94-512-SPHA, Item No. 498
Petitions for Special Hearing and Variance
Petitioner: Francis Medwig

Dear Mr. McCurdy:

The Zoning Plans Advisory Committee (ZAC) has reviewed the plans submitted with the above-referenced petition, which was accepted for filing on June 16, 1994 and scheduled for a hearing accordingly. Any attached comments from a reviewing agency are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties, i.e., zoning commissioner, attorney and/or the petitioner, are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case.

Any comments submitted thus far from the members of ZAC that offer or request information on your petition are attached. Only those comments that are informative will be forwarded to you; those that are not informative will be placed in the hearing file.

The following comments are related only to the filing of future zoning petitions and are aimed at expediting the petition filing process with this office.

1. The director of Zoning Administration and Development Management has instituted a system whereby seasoned zoning attorneys who feel that they are capable of filing petitions that comply with all aspects of the zoning regulations and petitions filing requirements can file their petitions with this office without the necessity of a preliminary review by zoning personnel.

Ms. Charlotte Minton
Zoning Administration and
Development Management
County Office Building
Room 109
111 W. Chesapeake Avenue
Towson, Maryland 21204

Re: Baltimore County
Item No. 94-512-SPHA (Item 498)

Dear Ms. Minton:

This office has reviewed the referenced item and we have no objection to approval as it does not access a State roadway and is not effected by any State Highway Administration project.

Please contact Bob Small at 410-333-1350 if you have any questions.

Thank you for the opportunity to review this item.

Very truly yours,

John Contestabile
John Contestabile, Chief
Engineering Access Permits
Division

BS/

My telephone number is _____
Maryland Relay Service for Impaired Hearing or Speech
1-800-735-2258 Statewide Toll Free

Mailing Address: P.O. Box 717 • Baltimore, MD 21203-0717
Street Address: 707 North Calvert Street • Baltimore, Maryland 21202

DATE: 06/22/94

Arnold Jablon
Director
Zoning Administration and
Development Management
Baltimore County Office Building
Towson, MD 21204
MAIL STOP-1105

RE: Property Owner: SEE BELOW

LOCATION: SEE BELOW

Item No.: SEE BELOW

Zoning Agenda:

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

B. The Fire Marshal's Office has no comments at this time.
IN REFERENCE TO THE FOLLOWING ITEM NUMBERS: 493, 494, 495, 496, 497, 498, 499, 500 AND 501.

RECEIVED
JUN 23 1994

ZADM

REVIEWER: LT. ROBERT P. SHERWOLD
Fire Marshal Office, PHONE 887-4881, HS-1102F

cc: File

Printed on Recycled Paper

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Zoning Administration &
Development Management

FROM: Pat Keller, Director
Office of Planning and Zoning

DATE: July 1, 1994

SUBJECT: 10928 Red Lion Road

INFORMATION:

Item Number: 498

Petitioner: Francis Medwig

Property Size: _____

Zoning: M.L./D.R. 5.5

Requested Action: _____

Hearing Date: 7/1

SUMMARY OF RECOMMENDATIONS:

Based upon the information provided, staff offers the following comments:

Due to concerns regarding sight distance to the north along Red Lion Road, staff recommends that prior to any final consideration of this matter, the results of an inspection by Traffic Engineering be forwarded to the Hearing Officer for review.

Should the request be granted, the following conditions should be attached:

1. The equipment parking area should be screened by landscaping and/or an attractive wood fence to screen the property from the adjacent dwellings on Proctor Avenue (i.e., 10828 and 10829 Proctor Avenue).
2. The existing gravel drive and the equipment parking area should be improved with a durable and dustless surface.

Prepared by: *Jeff Long*

Division Chief: *Gary Kern*

PK/JL:lw

RECEIVED
JUL 14 1994

ZADM

ZAC, 498/PZCNE/ZAC1

Pg. 1

July 14, 1994

T. Wray McCurdy, Esquire
101 Eastern Boulevard
Baltimore, Maryland 21220

RE: Case No. 94-512-SPHA, Item No. 498
Petitions for Special Hearing and Variance

Dear Mr. McCurdy:

Enclosed are copies of comments received from the Office of Planning and Zoning on July 13, 1994 for the above-referenced case.

If there are any questions, please do not hesitate to call me at 887-3391.

Sincerely,

Charlotte Minton
Charlotte Minton

Enclosure

Printed with Soybean Ink
on Recycled Paper

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning
Suite 113 Courthouse
400 Washington Avenue
Towson, MD 21204

September 15, 1994

(410) 887-4386

T. Wray McCurdy, Esquire
101 Eastern Boulevard
Baltimore, Maryland 21220

RE: Petitions for Special Hearing and Variance
Case No. 94-512-SPHA
Frances Midwig, Petitioner

Dear Mr. McCurdy:

Enclosed please find the decision rendered in the above captioned case. The Petitions for Special Hearing and Zoning Variance have been granted, with restrictions, in accordance with the attached Order.

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal within thirty (30) days of the date of the Order to the County Board of Appeals. If you require additional information concerning filing an appeal, please feel free to contact our Appeals Clerk at 887-3391.

Very truly yours,

Lawrence E. Schmidt
Zoning Commissioner

LES:mmm

att.

cc: Ms. Frances Midwig
cc: Mrs. Norma Lee Kellner
cc: Norman Lauenstein, Esquire
cc: Mr. and Mrs. Adam E. Paul, Sr., White Marsh Community Assoc.



Petition for Special Hearing to the Zoning Commissioner of Baltimore County

for the property located at 10928 Red Lion Road, Baltimore, MD 21162

which is presently zoned ML DR 5.5

This Petition shall be filed with the Office of Zoning Administration & Development Management. The undersigned, legal owner(s) of the property situated in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing under Section 500.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner should approve.

Access to the ML Parcel is only possible through the DR 5.5 Drive Way. Due to the contour of the property, A Special Hearing is required to permit this condition per section 102.6.A.3 of the zoning Office Policy Manual.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Special Hearing advertising, posting, etc., upon filing of this petition, and further agree to and be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Contact Purchaser/Leasee

(Type or Print Name)

Signature

Address

City

State

Zipcode

Attorney for Petitioner

T. Wray McCurdy

(Type or Print Name)

Signature

Address

City

State

Zipcode

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CERTIFICATE OF PUBLICATION

TOWSON, MD., July 1, 1994

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once per week of 1 successive weeks, the first publication appearing on June 30, 1994

THE JEFFERSONIAN,
A. HENNINGSON
LEGAL AD. - TOWSON

NOTICE OF HEARING
The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204 on the following date and time:
Date: 09-15-94
Time: 11:00 a.m. to 12:00 p.m.
The hearing will be held in Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204.

Special Hearing to permit access to the M.L. parcel through the D.R.-5.5 driveway. Variance to permit a 41-foot front setback in lieu of the required 75 feet; to permit an open projection setback of 25 feet in lieu of the required 56.25 feet; to permit 17 feet and 40 feet side yard setbacks in lieu of the required 50 feet; to permit a 17-foot proximity of a structure to a residential zone in lieu of the required 125 feet; and to permit a M.L. use within 100 feet of a residential zone line.

Lawrence E. Schmidt
Zoning Commissioner for Baltimore County

NOTE: (1) Hearings are handicapped accessible; for special accommodations please call 887-3391.
(2) For information concerning the file and/or hearing, please call 887-3391.

Baltimore County
Zoning Administration & Development Management
111 West Chesapeake Avenue
Towson, Maryland 21204

Date 16 June 94

DAN M DWG - 10928 Red Lion Rd

CSPH 250

CV 350

2 signs 70

570.00

Please Make Checks Payable To: Baltimore County

\$570.00



Petition for Variance to the Zoning Commissioner of Baltimore County

for the property located at 10928 Red Lion Road, Baltimore, MD 21162

which is presently zoned ML DR 5.5

This Petition shall be filed with the Office of Zoning Administration & Development Management. The undersigned, legal owner(s) of the property situated in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section(s) 243.1 and 301.1 for a 41' front set back in lieu of the required 75' and an open projection set back of 25' in lieu of the required 56.25'. Also, a Variance of 243.2 of the Zoning Regulations for a 17' and 40' side yard set backs in lieu of the required 50'. Also, a Variance of 243.4 for a 17' proximity of a structure to a residential zone in lieu of the required 125' and a M.L. use within 100' of a residential zone line, of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County, for the following reasons: (Indicate hardship or practical difficulty)

Will explain at hearing.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Contact Purchaser/Leasee

(Type or Print Name)

Signature

Address

City

State

Zipcode

Attorney for Petitioner

T. Wray McCurdy

(Type or Print Name)

Signature

Address

City

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ZONING DESCRIPTION OF
10928 RED LION ROAD

94-512-SPHA

Beginning at a point in the North side of Red Lion road. Thence the following courses and distances:

N 31° 18' 07" W 250.15', N 52° 56' 56" E 196.39',
S 34° 58' 07" E 194.87', S 33° 13' 53" W 85.03',
S 42° 12' 53" W 136.71' to the place of beginning
as recorded in Deed Liber 7234, Folio 201.

Containing 46027.59 sq.ft.. The DR 5.5 portion contains 29743.81 sq.ft., and the ML portion contains 16283.78 sq.ft.. Also known as 10928 Red Lion road and located in the 14th Election District.

Joanne J. Hastings

498

CERTIFICATE OF POSTING ZONING DEPARTMENT OF BALTIMORE COUNTY Towson, Maryland

District 11th Date of Posting 7/4/94

Posted for Special Hearing & Variance

Petitioner: Frances Midwig

Location of property: 10928 Red Lion Rd, N/A

Location of Signs: Along the driveway, on property being taken

Remarks: M.D.W.

Posted by M.D.W.

Date of return: 7/15/94

Number of Signs: 2

CERTIFICATE OF POSTING ZONING DEPARTMENT OF BALTIMORE COUNTY Towson, Maryland

District 11th Date of Posting 7/22/94

Posted for Special Hearing & Variance

Petitioner: Frances Midwig

IN RE: PETITIONS FOR SPECIAL HEARING & ZONING VARIANCE
N/S Red Lion Road at Proctor Avenue
10928 Red Lion Road
11th Election District
5th Councilmanic District
Frances Midwig
Petitioner

* BEFORE THE
* ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 94-512-SPHA

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner on Petitions for Special Hearing and Variance for the property located at 10928 Red Lion Road in the Cowenton/White Marsh section of Baltimore County. Special Hearing relief is requested to approve access to the M.L. zoned portion of the property through a driveway located on the D.R.5.5 part of the site, pursuant to Sections 500.7 of the Baltimore County Zoning Regulations (BCZR) and 102.6.A.3. of the Zoning Commissioner's Policy Manual. As to the variance, relief is requested from Sections 243.1 and 301 of the BCZR to allow a 41 ft. front yard setback in lieu of the required 75 ft. and an open projection setback of 25 ft. in lieu of the required 56.25 ft., also for the front yard. Additionally, a variance from Section 243.2 is requested to allow side yard setbacks of 17 ft. and 40 ft. in lieu of the required 50 ft. Lastly, variance relief from Section 243.4 and 253.4 of the BCZR is sought for a 17 ft. proximity of a structure to a residential zone in lieu of the required 125 ft. and an M.L. use within 100 ft. of a residential zoned line. All of the subject property and requested relief are more particularly shown on Petitioner's Exhibit No. 1, the plat to accompany the Petitions for Special Hearing and Zoning Variance.

Appearing at the requisite public hearing was the property owner, Frances Midwig. Also present were other members of her family, including Norman Midwig, Lisa Midwig and David R. Midwig. Margaret Horner also ap-

peared in support of the Petition. The Petitioner was represented by T. Wray McCurdy, Esquire. Several residents from the surrounding locale also appeared and testified. They included George S. Kellner and Norma Kellner, his wife, who reside immediately across the street, and Sarah E. Paul and Adam E. Paul, Sr. from the White Marsh Community Association. The Protestants were represented by Norman Lauenstein, Esquire.

Lorne Hastings, a Registered Land Surveyor, who prepared the site plan, testified and presented that plan. He indicated that the subject property is split zoned, D.R.5.5 and M.L. The D.R.5.5 portion of the tract contains 29,743 (+/-) sq. ft. and the M.L. portion contains 16,283 sq. ft. (+/-). The total tract is 1.057 acres in area. The property is roughly a rectangularly shaped property which has frontage on Red Lion Road. As noted above, the site is located in White Marsh/Cowenton not far from Ebenezzer Road and Pulaski Highway. The D.R.5.5 portion of the property is improved with a two story dwelling. The M.L. portion of the site is improved by a two story 20 ft. x 30 ft. garage. As to the topography, the site has a severe slope, falling away from its frontage on Red Lion Road. Vehicular access to the property is by way of a shared driveway on the site's west side. This driveway leads from the western property line behind the two story dwelling and across the D.R.5.5 part of the property. It extends onto the M.L. section of the site, which comprises the eastern one-third of the lot and ends at the aforementioned two story dwelling.

As to the zoning variances, Mr. Hastings offered several comments. As shown on the plan, the side yard setback distances, which are the subject of the variance request, are measured from the garage. On the west side, there exists a 40 ft. distance from the building envelope to the property line in lieu of the required 50 ft. It is to be noted that the adjoin-

ing property on that side of the subject site is owned by SPW Construction Company and is zoned M.L. It is used as a heavy equipment storage yard. On the other side of the garage, towards the east, the side yard measures 17 ft. However, this is misleading in that the distance is measured from the building envelope to the zoning line which bisects this property. Thus, the variance on that side is clearly interior in nature and is not measured to an adjoining property. Both of these variances are justified in view of the character of the adjoining property and split zoning of the subject site.

As to the front yard setbacks, they are measured from the front of the existing building envelope of the garage to the property's front boundary on Red Lion Road. In this respect, a 41 ft. setback is requested for the enclosed portion of the garage and 25 ft. setback is requested for a porch (open projection) which exists from the front of the property. In this respect, Mr. Hastings observed the significant slope of the property. He noted that the subject garage was barely visible from the houses across the street on Red Lion Road because of this slope and opined that this site feature justified the variance..

The final series of variances are also somewhat unusual in that they also relate to the 17 ft. distance from the garage to the zoning line which bisects this property. As is the case with the side yard setback, this is the distance from the garage to the zoning line, which is situated between the garage and dwelling. Moreover, the structure which lies within 100 ft. of the residential zone line is the aforementioned garage and the most affected residence is the two story dwelling on the Midwig lot. Clearly, these variances are internal in nature and caused by the split zoning of the property.

As to the Petition for Special Hearing, same is requested pursuant to Section 500.7 of the BCZR and Section 102.6.A.3 of the Zoning Commissioner's Policy Manual. That section regulates access to an M.L. zoned parcel through a D.R. zone. In this respect, Mr. Hastings again observed the severe slope of the property from at its frontage on Red Lion Road. He testified that direct access from that road would be difficult because of the slope and the limited site distances. Also, if access were created directly from Red Lion Road to the M.L. portion, same could be detrimental to the residences across the street.

Frances Midwig also testified. She corroborated the testimony as outlined above which was offered by Mr. Hastings. She also described the use of the property. She noted that the house is an old farm house and, although no longer residing there, she and her family have lived there for many years. Presently, the dwelling is occupied by her two brothers. She also noted that there was an old barn on the property at one time in which old cars, tractors and similar heavy equipment was kept. The two story garage was built approximately 10 years ago and replaced the garage which was in a state of disrepair.

Norman Midwig also testified. He indicated that he and his wife own and operate a business known as Midwig's Clean-a-Lot, Inc. The business cleans parking lots and performs janitorial services for hire. In terms of equipment, it utilizes two sweepers, a bobcat and three trucks, which are stored on the M.L. portion of this site. He described the dimensions of the vehicles involved and testified that there would be no storage of any of these vehicles between the front of the garage and Red Lion Road. Moreover, he noted that the garage presently has other equipment and vehicles including motorcycles owned by his brother. On cross examination, he also

fully explained the nature of his work and the activity which goes on at the site.

Testifying in opposition was Norma L. Kellner, a long time resident who resides across the street. She acknowledged that a school bus business operated off of the subject site several years ago. She specifically objects to the repair work which is being done on the property and the in and out traffic generated from the site. She also fears the commercialization of the subject area and is concerned that her residential property will be disturbed by commercial activity nearby. Sarah Paul also testified in opposition to the request as President of the White Marsh Community Association. Essentially, her testimony was in opposition of any encroachment on the residential locale.

As to the zoning variances, same must be adjudged in accordance with the standards offered in Section 307.1 of the BCZR. Therein, the Petitioner must address a three pronged test in order for the variances to be granted. First, the Petitioner must demonstrate that a practical difficulty exists if strict adherence to the regulations was required. Secondly, variance relief can be granted only if same is within the spirit and intent of the zoning regulations. Lastly, there can be no detriment to the surrounding locale.

In applying the facts of this case to the standards, I am persuaded that the variances should be granted. As to the front and side yard setbacks, certain of the distances involved are of little practical effect in that they are measured from the internal zoning line and not the property line. As to the other distances, the site constraints, including the property's topography and neighboring uses are significant. There is a significant slope from the front of the property line which certainly lessens the

visual effect of the placement of the garage near Red Lion Road. Moreover, the commercial/business use to the east renders the variance from 40 ft. in lieu of 50 ft. variance to the west of little impact. Likewise, the fact that this property is split zoned necessitates the distance of the structure to the residential zone and the use within the 100 ft. residential zone line buffer. As the Petitioner testified, the most affected dwelling is on the subject property and owned by the Midwigs.

As to the special hearing relief, I am, likewise, persuaded to grant same. This in large measure is necessary to legitimize an existing situation. I am also persuaded by the testimony of Mr. Hastings that direct access from Red Lion Road to the M.L. portion of the site would be dangerous in view of the limited site distance.

Notwithstanding my approval of the subject Petitions, I am inclined to incorporate certain restrictions as conditions precedent to the relief granted. These conditions are issued pursuant to Section 26-127(c) of the County Code. First, I shall adopt the Zoning Plans Advisory Committee comment offered by the Office of Planning and Zoning. This comment suggests that landscaping and/or fencing be added to screen the property from adjacent dwellings. In this regard, I will require approval of a landscape plan by the County's Landscape Architect. Also, the driveway shall be improved with a durable and dustless surface to prevent dust and dirt from leaving the site and adversely affecting nearby properties.

Also, some provision should be made to ensure that the operation of the business on the M.L. portion of the site does not adversely affect the neighborhood. In this regard, I will prohibit any repairs to the commercial vehicles from being made on the site earlier than 9:00 A.M. and no later than dusk, and on Monday thru Friday, only. Moreover, commercial

vehicles kept on site shall be limited to those identified in the testimony and/or the replacements of same, for so long as same are not larger. These vehicles are identified as two sweepers, a bobcat, three trucks and a utility trailer.

Pursuant to the advertisement, posting of the property, and public hearing on these Petitions held, and for the reasons given above, the relief requested should be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner of Baltimore County this 15th day of September 1994, that, pursuant to the Petition for Special Hearing, approval to access the M.L. zoned portion of the property through a driveway located on the D.R.5.5 part of the site under Sections 500.7 of the Baltimore County Zoning Regulations (BCZR) and 102.6.A.3. of the Zoning Commissioner's Policy Manual, be and is hereby GRANTED; and,

IT IS FURTHER ORDERED that a variance from Sections 243.1 and 301 of the BCZR to allow 41 ft. front yard setback, in lieu of the required 75 ft., and an open projection setback of 25 ft., in lieu of the required 56.25 ft., also for the front yard, be and is hereby GRANTED; and,

IT IS FURTHER ORDERED a variance from Section 243.2 to allow side yard setbacks of 17 ft. and 40 ft., in lieu of the required 50 ft., be and is hereby GRANTED; and,

IT IS FURTHER ORDERED that a variance from Section 243.4 and 253.4 of the BCZR is sought for a 17 ft. proximity of a structure to a residential zone, in lieu of the required 125 ft., and an M.L. use within 100 ft. of a residential zoned line, be and is hereby GRANTED, subject, however, to the following restrictions which are conditions precedent to the relief granted herein:

1. The Petitioner is hereby made aware that proceeding at this time is at her own risk until

such time as the 30 day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioner would be required to return, and be responsible for returning, said property to its original condition.

2. The Petitioner shall comply with all requirements of the Zoning Plans Advisory Committee (ZAC) as set forth in their comment submitted by the Office of Planning and Zoning dated July 1, 1994 attached hereto and made a part hereof.

3. The Petitioner shall provide a landscape plan to the Office of Planning and Zoning for approval by the Baltimore County Landscape Architect for approval. The approved landscape plan shall become a permanent part of the record and file in this matter.

4. Repairs made to any commercial vehicles stored on the subject property shall not be performed earlier than 9:00 A.M. nor later than dusk. Also any repair work on commercial vehicles is limited to Monday through Friday, only.

5. Only the commercial vehicles described at the public hearing for this case shall be permitted to be stored on the property. These vehicles are identified as two sweepers, a bobcat, 3 trucks and a utility trailer.

6. Upon request and reasonable notice, the Petitioner shall permit a representative of the Zoning Enforcement Division to make an inspection of the subject property to ensure compliance with this Order.


LAWRENCE E. SCHMIDT
Zoning Commissioner for
Baltimore County

LES:mn

94-512-561A

499



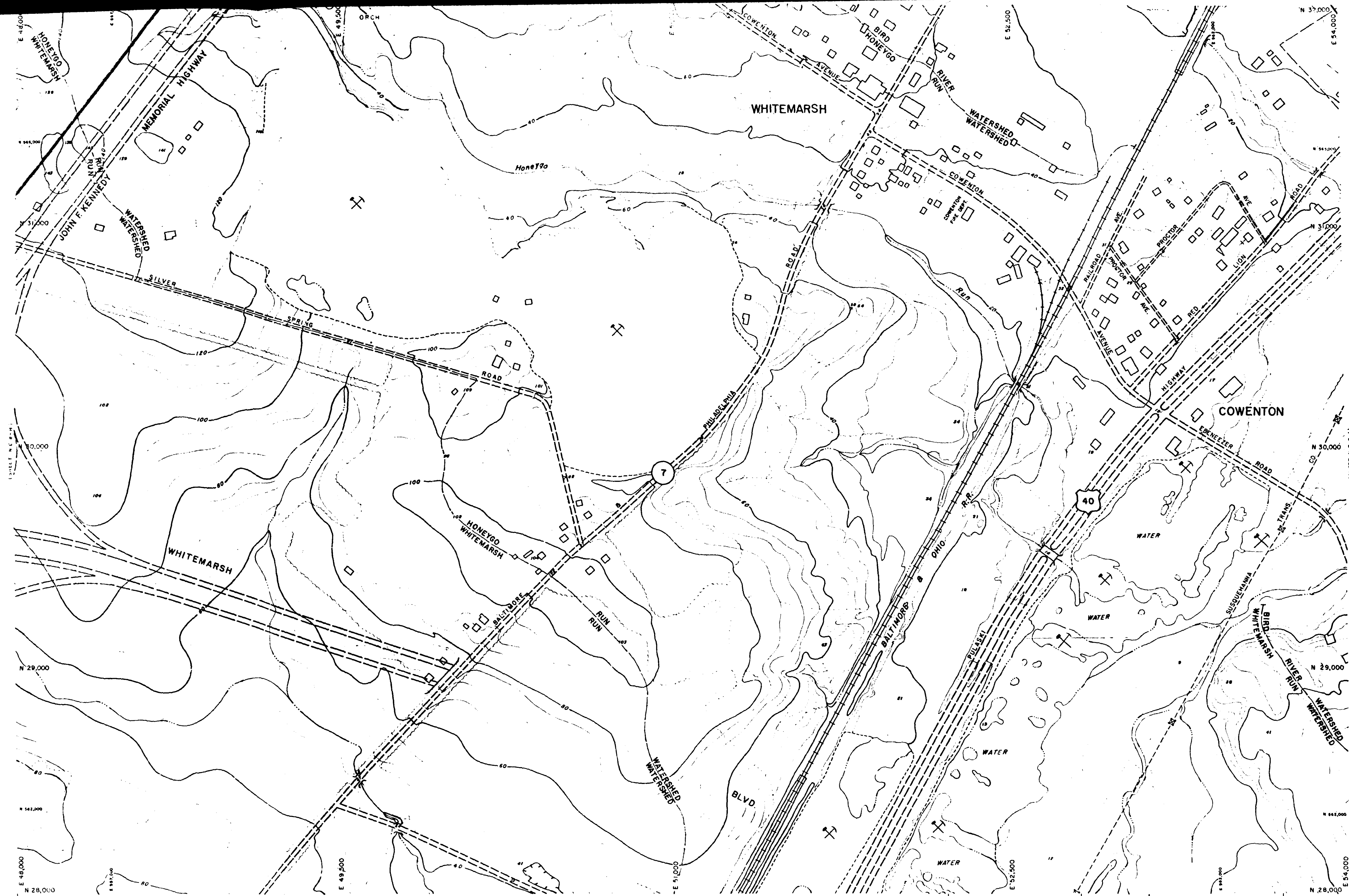
M - SE
M - NE

THIS MAP HAS BEEN REVISED IN SELECTED AREAS.
TOPOGRAPHY COMPILED BY PHOTOGRAMMETRIC METHODS
BY BUCHART-HORN, INC. BALTIMORE, MD. 21210

**BALTIMORE COUNTY
OFFICE OF PLANNING AND ZONING
OFFICIAL ZONING MAP**

1992 COMPREHENSIVE ZONING MAP
Adopted by the Baltimore County Council
Oct. 15, 1992
No. 183-92, 184-92, 185-92, 186-92, 187-92, 188-92, 189-92
William M. Howard
Chairman, County Council

SCALE	LOCATION	SHEET
1" = 200'±	WHITE MARSH	N. E.
DATE OF PHOTOGRAPHY JANUARY 1986	COWENTON	8-1



PHOTOGRAMMETRIC MAP OF
BALTIMORE COUNTY METROPOLITAN AREA

REVISIONS

BY	DATE
1951	8-14-51

SCALE

1" = 200'
DATE OF PHOTOGRAPHY
APRIL 1953

LOCATION

WHITE MARSH
COWENTON

SHEET

N. E.
8-I

Topography Compiled By Photogrammetric Methods
AERO SERVICE CORPORATION-PHILADELPHIA, PA.

W
M
A

WHITE MARSH CIVIC ASSOCIATION P.O. Box 314 White Marsh, Maryland 21162

August 11, 1994

To the Zoning Hearing Officer:

Re: Case #94-512-SPHA

In the Red Lion Rd., Ebenezer Rd. and Philadelphia Rd. areas, the community is being over-run with changes in zoning that are having a severe impact on the community.

The area is essentially residential with homes occupied by older citizens. This has been their home for many years and they cannot afford to move elsewhere. If the environmentalist can protect an owl or a rare species of toad, why can't we protect our older citizens from the actions of others.

The community has had to fight a rubble landfill at Honeygo Run and Philadelphia Rd.. Recently on Red Lion Rd., a developer has proposed a Sports Complex and a golf driving range. Red Lion Road is a narrow country road that was not designed to handle heavy traffic or trucks. What new project will someone develop to harass the community?

The White Marsh Civic Association would like to go on record as opposing any further encroachment on residential zoning in the Red Lion Road area. The association opposes the granting of any variance or special exception to the petitioner. The zoning law states that there are certain requirements that must be met in order to make an M/L use of the property and in all fairness to the community, they should be met. The petitioner has already shown disregard for his neighbors by being cited for violation of certain zoning regulations. What guarantee will the community have that the petitioner will not continue to commit violations of the zoning laws? The property is in a residential community and close to a church.

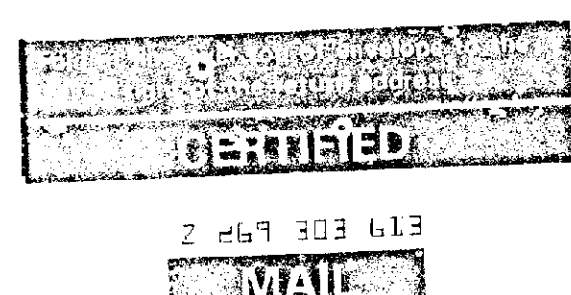
We urge the zoning hearing officer to consider the impact that this operation will have on the community and not grant a variance.

Sincerely,

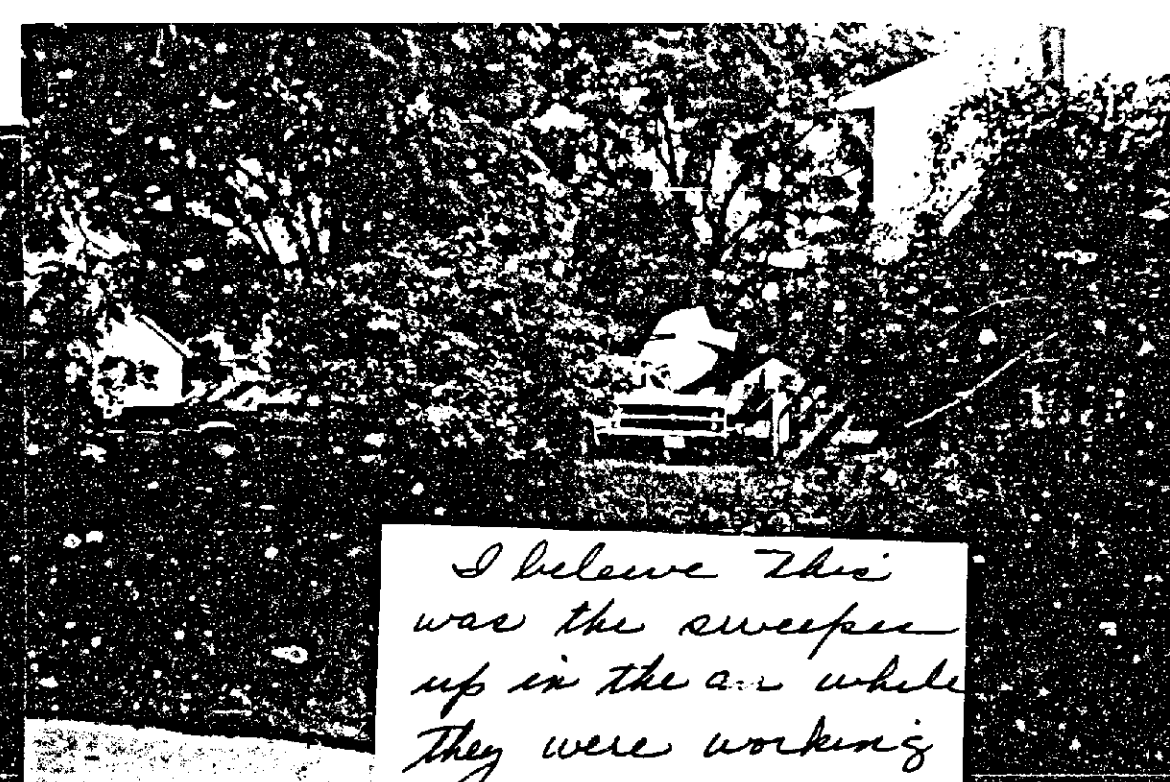
Sarah F. Paul
Sarah F. Paul
President

PROTESTANTS
EXHIBIT NO. 1

Norma Lee Kellner
10907 Red Lion Road
White Marsh, MD 21162



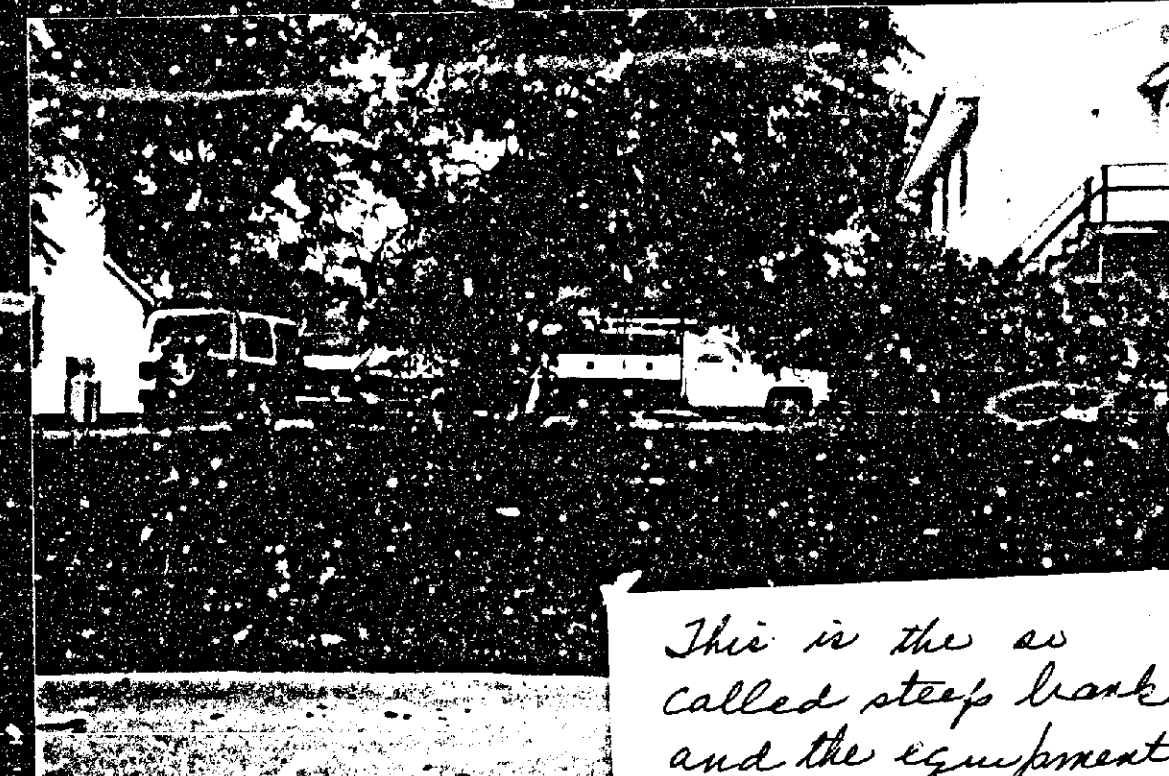
Mr. Laurence E. Schmidt
Zoning Commissioner
Office of Planning & Zoning
Suite 112 Courthouse
Towson, MD 21204



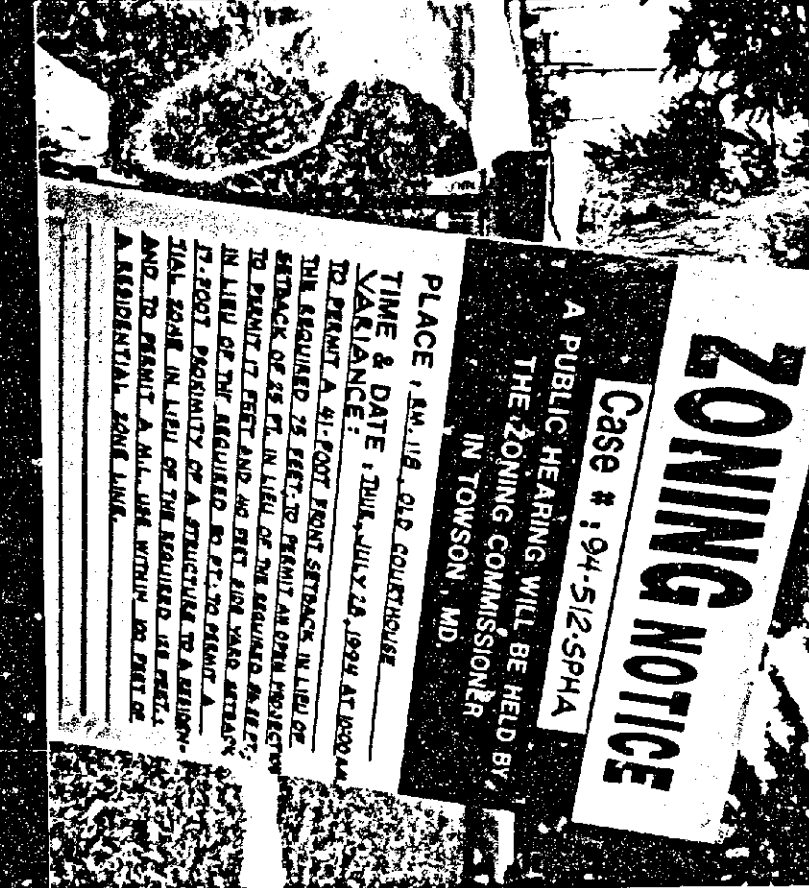
I believe this was the sweepster up in the air while they were working on it 8-5-94
All pictures were taken when there was to be no commercial activity on the property



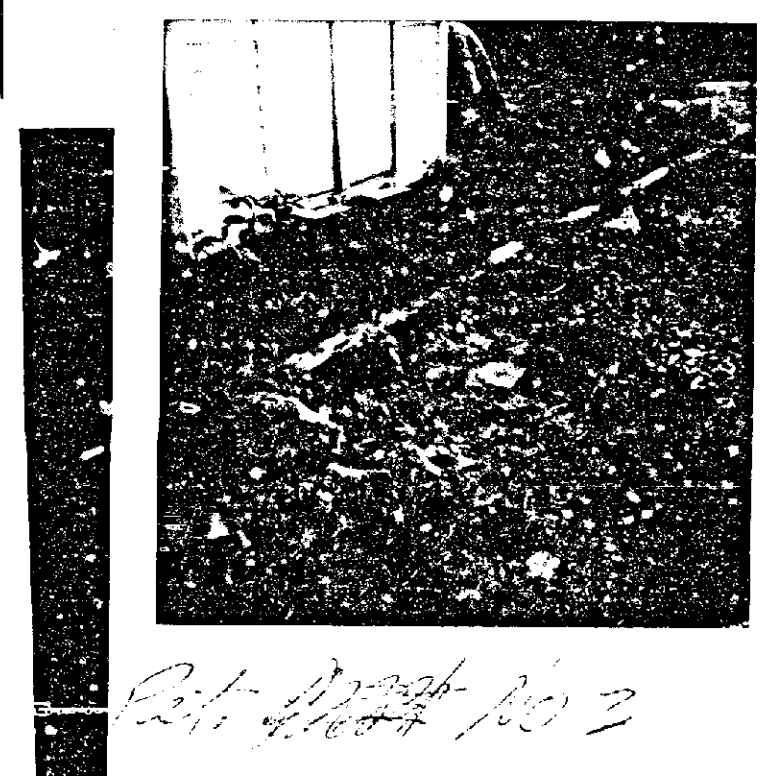
This was taken after the hearing decision was rendered and I had been notified in the mail also this shows part of the steep bank on the property - Taken Sept 20, 1994



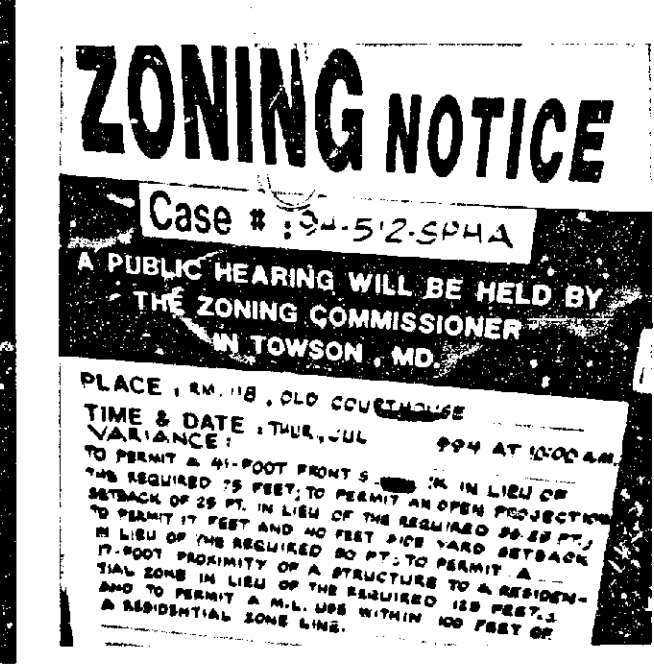
This is the so called steep bank and the equipment that is not parked between the front of the garage & Red Lion Rd.



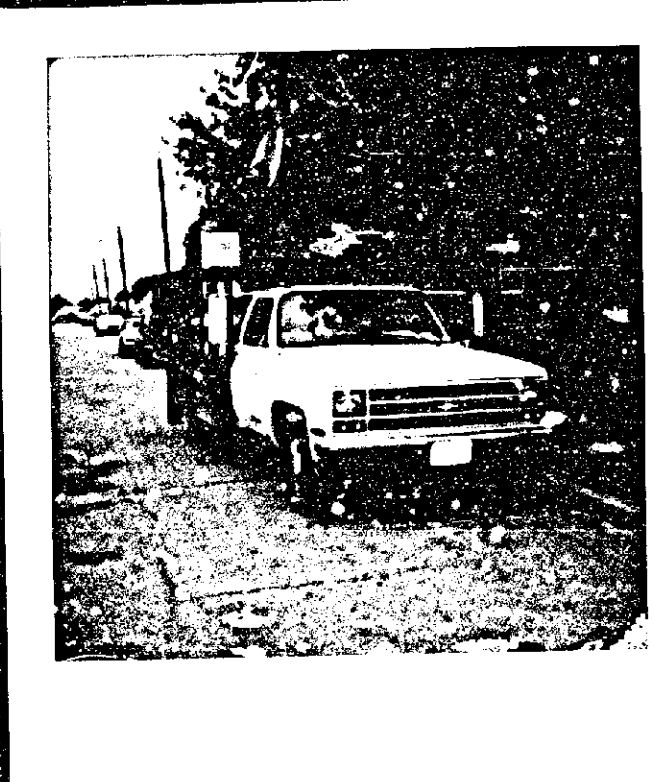
I believe this sign was posted 7-14-94



Set back No 2



*This picture was taken 7-18-94
date was changed to July 20th - was written so light that it did not show up in picture
day was not change
it should have been Wed. July 20 1994*



NO	DATE	DESCRIPTION	CHK
1	5-6-94	ADD VARIANCE NOTES	
2	5-17-94	SPECIAL VARIANCE	
3	6-18-94	ADD PBA & QD B.S.L. VARIANCE	

LEGEND
☒ AREA OF EASEMENT
☐ UTILITY POLE
☐ FIRE HYDRANT

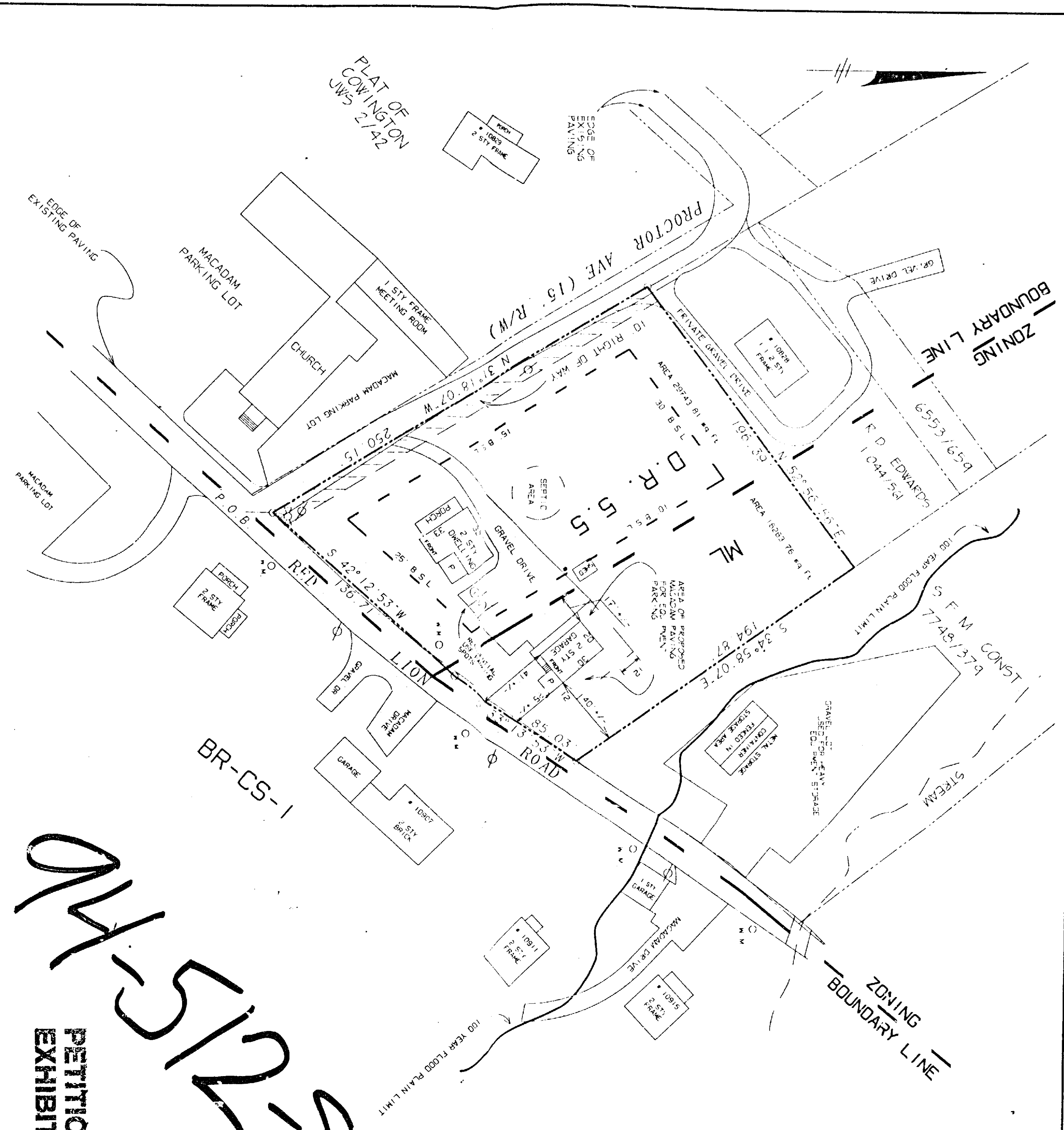
THIS SURVEY AND PLAT WERE PREPARED BY A LICENSED SURVEYOR AND THE PLAT IS A TRUE AND CORRECT REPRESENTATION OF THE LAND SHOWN THEREON IN THE STATE OF MARYLAND.
DATE: 6/15/94
RED NO. 575

6/15/94
6/15/94

ZONING PLAT FOR
VARIANCE AND SPECIAL HEARING
10928 RED LION ROAD.
HASTINGS SURVEYING
41 EASTSHIP ROAD
BALTIMORE, MD 21222
(410) 268-5603
COUNCILMAN'S DISTRICT 5TH ELECTION DISTRICT 11TH

SCALE: 1"=40'
6/15/94
JOB # 554

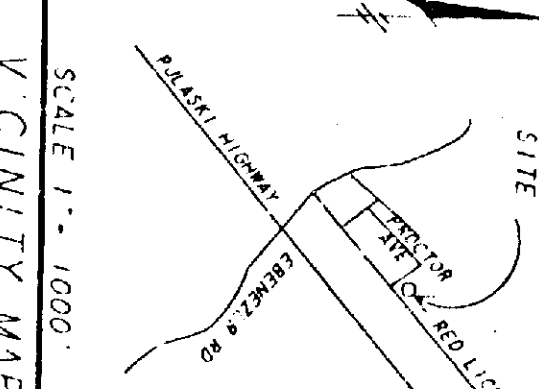
PETITIONER'S
EXHIBIT NO. 1
94-512-SPHA



NOTES

1. OWNER: FRANK'S MOWING, 10928 RED LION ROAD, BALTIMORE, MARYLAND 21162 (410) 732-5229
2. DEED REFERENCE: 7344/201
3. PROPERTY ZONED: DP 5.5 AND ML
4. TOTAL AREA OF TRACT: 1.057 ACRES
5. PROPERTY HAS ACCESS TO PUBLIC WATER AND SEPTIC AREA AS SHOWN
6. F.A.R. OF M.L. SECTION OF PROPERTY: 0.062
7. NO PRIOR ZONING HEARINGS.
8. PROPOSED NEW MACADAM PAVING 12' X 12' AROUND REAR AND SIDE OF 2 STY. GARAGE.
9. NO EMPLOYEES ARE IN THE M.L. BUILDING 11' X 5' X 12' FOR LIGHT CONVEYOR EQUIPMENT STORAGE.

SCALE: 1"=1000'



RE: PETITION FOR SPECIAL HEARING * BEFORE THE
PETITION FOR VARIANCE * ZONING COMMISSIONER
10928 Red Lion Road, N/S Red Lion *
Road at Proctor Avenue, 11th Elec- *
tion District, 5th Councilmanic * FOR BALTIMORE COUNTY
Francis Midwig * CASE NO.: 94-512-SPHA
Petitioner * * * * *

ENTRY OF APPEARANCE

Please enter the appearance of the People's Counsel in the above-captioned matter. Notice should be sent of any hearing dates or other proceedings in this matter and of the passage of any preliminary or final order.

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

CAROLE S. DEMILIO
Deputy People's Counsel
Room 47, Courthouse
400 Washington Avenue
Towson, MD 21204
(410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 19th day of June, 1994, a copy of the foregoing Entry of Appearance was mailed to T. Wray McCurdy, Esquire, 101 Eastern Boulevard, Baltimore, MD 21220, attorney for Petitioner.

PETER MAX ZIMMERMAN

Baltimore County Government Zoning Commissioner Office of Planning and Zoning



October 13, 1994

Suite 112 Courthouse
400 Washington Avenue
Towson, MD 21204

(410) 887-4386

Ms. Norma Lee Kellner
10907 Red Lion Road
White Marsh, Maryland 21162

RE: Case No. 94-512-SPHA
Frances Midwig

Dear Ms. Kellner:

This is in response to your letter of September 28, 1994 and our recent telephone conversation.

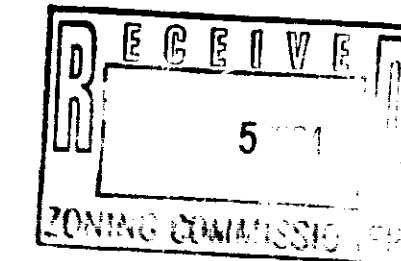
I regret if I mis-characterized your testimony regarding the school bus business which formerly operated in this vicinity. My notes of the testimony taken indicated that the testimony was that, at one time, a school bus business was located on the subject property. I either misunderstood your testimony or it was not made clear that the business was not operated from that site. In any event, that business location is not significant when considering the present and proposed operations on the Midwig property.

Moreover, your letter is erroneous within its discussion of activity which is permitted on the site during the 30 day appeal time. During that period, any lawful activity can be conducted on the property. Moreover, the Petitioner may conduct activities as allowed within the zoning order. As pointed out within restriction No. 1 of my Order, the Petitioner is warned that any alteration of the property or utilization of same in a manner consistent with the Order during the 30 day appeal period is subject to reversal by the Baltimore County Board of Appeals.

Further, as no doubt, your counsel advised you, and we discussed by telephone, any person dissatisfied with my decision has the right to appeal same to the County Board of Appeals. Such an appeal must be instituted within 30 days of the date of the decision. If an appeal is filed, the County Board of Appeals will conduct a new hearing and consider the case without regard to the decision which I made in this matter. I urge you to file such an appeal if you believe that my decision is erroneous.

Printed with Soybean Ink
on Recycled Paper

September 28, 1994



Mr. Laurence E. Schmidt
Zoning Commissioner
Office of Planning and Zoning
Suite 112 Courthouse
Towson, MD 21204

RE: Case No. 94-512-SPHA

Dear Sir:

I would like to make it a matter of record that I was misquoted in "Findings Of Fact and Conclusions Of Law". I was quoted as saying that a school bus business was operated off of the subject site several years ago -- I did not say that! What I said is "I owned a school bus company, but it was located in another area legally zoned to operate that business. The subject property has never been used for commercial purposes. The barn that was located on the subject property never housed anything but a farm tractor which was never used by the Alexander-Midwig family. Also, the barn deteriorated and was torn down many years before the new garage was built. The old barn never housed any equipment. The new garage was built with dubious permits and the ML property is located within 300 feet of wetlands, which no Baltimore County organization seems to have checked out.

Also, I would like to state that some time after the hearing of August 12, 1994, for a period of 2 weeks including Labor Day, the premises were used for commercial activity. Constantly trucks came in and out, and repair work was done on a daily basis. They did repair work most of the day on Labor Day which was a holiday.

Also, since the decision was rendered in Case No. 94-512-SPHA -- it was my understanding that they were not to proceed until the appeal period was up in 30 days. On Sunday, September 18, 1994 at 10:15 A.M., they were using power equipment doing repair work and it was making quite a bit of noise. I was in my house with the TV on, and I could barely hear my TV. At 3:50 P.M. on Tuesday, September 20, 1994 there were two trucks in the yard. One was a stake body truck unloading items and the other was a dump truck which was being cleaned and hosed down. I was not the only one to see this. Two other people observed it. Please see the pictures enclosed. A dump truck was never listed as one of the pieces of equipment to be stored on the property. Norman Midwig's statement that, "there would not be any storage of vehicles between the front of the garage and Red Lion Road" has proven to be false. The dump truck is between the front of

GIVEN

PLEASE RESET CASE AND REPOST
PROPERTY. NOTIFY ATTORNEYS (McCurdy)
& (NEWSTEIN) BY MAIL TOO!

CASE WAS SET ORIGINALLY FOR
7/19/94. AD IN TELEVISION
WAS OK BUT SIGN WAS WRONG (7/25/94)
McCurdy THEN ASKED FOR POSTPONEMENT
WHICH WAS GRANTED TO 7/10 BUT
SIGN NOT CHANGED PROMPTLY.

I postponed at hearing as all
parties might not be present.
Reset + Repost, NO COST TO
Petitioner. Advise attys by
mail too!

JES

IMPORTANT MESSAGE	
TO	410-212-2111
DATE	10/18/94
TIME	10:00 A.M.
FROM	Norma Kellner
OF	
PHONE	335-8838
FAX	
TELEPHONED	☒ PLEASE CALL
CAME TO SEE YOU	☒ RETURNED YOUR CALL
WANTS TO SEE YOU	☐ WILL CALL AGAIN
WILL FAX YOU	☐ URGENT
Message: Frances Midwig	
Signed: [Signature]	

SUTTON, McCURDY, AND STONE, P.A.

ATTORNEYS AT LAW
111 WEST CHESAPEAKE AVENUE
BALTIMORE, MARYLAND 21201
(410) 528-2200
(410) 528-2201
(410) 528-2202

WILLIAM R. SUTTON (Retired)

June 28, 1994

Baltimore County Government
Office of Zoning Administration
and Development Management
111 West Chesapeake Avenue
Towson, MD 21204

Attention: Arnold Jablon, Director

RE: Case Number: 94-512-SPHA (Item 498)
10928 Red Lion Road
N/S Red Lion Road at Proctor Avenue
11th Election District - 5th Councilmanic
Petitioner: Francis Midwig
Hearing Date: Tuesday, July 19, 1994 at 11:00 a.m.
Room 118, Old Courthouse

Dear Mr. Jablon:

The purpose of this correspondence is to respectfully request a continuance of the hearing now scheduled for July 19, 1994 concerning the above referenced for reason that I have a prior commitment before the Circuit Court for Baltimore County with State vs. Anderson, case number 93CR4396, scheduled for the same date at 9:15 a.m. I am enclosing a copy of the court notice for your records.

Kindly advise this office promptly your decision in reference to this request, and to avoid further postponements, please call my office to reschedule this hearing date.

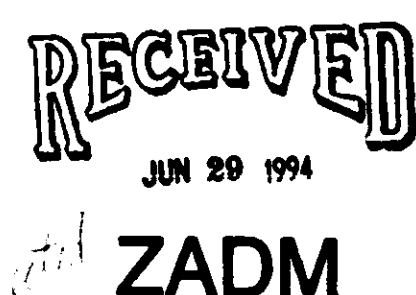
Thank you for cooperation in reference to this request.

Very truly yours,

T. Wray McCurdy

TWM/bsb

Enclosures



PLEASE PRINT CLEARLY

PETITIONER(S) SIGN-IN SHEET

NAME	ADDRESS
FRANCES MIDWIG	917 N. TRIS AVE. BALTA, MD 21205
DAVID R. MIDWIG	10928 Red Lion Rd. 21162
NORMAN MIDWIG	945 LANCE AVE. 21221
BRIAN DIETZ	41 EAST SHIP RD. 21222
LORENE HASTINGS	" " " "

PLEASE PRINT CLEARLY

PETITIONER(S) SIGN-IN SHEET

NAME	ADDRESS
T. Wray McCurdy	101 E. Union Blvd 21221
Norman Midwig	945 Lance Ave
Margaret Horner	885 Suburban Rd.
FRANCES MIDWIG	917 N. TRIS AVE. 21205
LISA MIDWIG	945 Lance Avenue 21221
DAVID MIDWIG	10928 Red Lion Rd. 21162

PLEASE PRINT CLEARLY

PROTESTANT(S) SIGN-IN SHEET

NAME	ADDRESS
Norma Lee Kellner	10907 Red Lion Rd.
SARAH E. PAUL	White Marsh, Md. 21162
ADAM E. PAUL SR.	10404 VINCENTI FARM LN
George S. Kellner	WHITE MARSH, MD 21162
Norman Midwig	10907 Red Lion Rd. 21162
Norman Lowenstein, City	809 Eastern Blvd - 21221

PLEASE PRINT CLEARLY

PROTESTANT(S) SIGN-IN SHEET

NAME	ADDRESS
NORMA KELLNER	10907 RED LION RD.
Norma Kellner	WHITE MARSH, MD 21162
GEORGE S. KELLNER	10907 Red Lion Rd.
George S. Kellner	70 White Marsh Ave 21162
Norman Lowenstein, City	809 Eastern Blvd 21221

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204

Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 94-512-SPHA (Item 498)
10928 Red Lion Road
N/S Red Lion Road at Proctor Avenue
11th Election District - 5th Councilmanic
Petitioner(s): Francis Medwig
HEARING DATE: TUESDAY, JULY 19, 1994 at 11:00 a.m., Rm. 118, Old Courthouse

Special Hearing to permit access to the M.L. parcel through the D.R.-5.5 driveway. Variance to permit a 41-foot front setback in lieu of the required 75 feet; to permit an open projection setback of 25 feet in lieu of the required 56.25 feet; to permit 17 feet and 40 feet side yard setbacks in lieu of the required 50 feet; to permit a 17-foot proximity of a structure to a residential zone in lieu of the required 125 feet; and to permit a M.L. use within 100 feet of a residential zone line.

Arnold Jablon
Director

cc: Francis Medwig
T. Wray McCurdy, Esquire

NOTES: (1) ZONING SIGN & POST MUST BE RETURNED TO RM. 104, 111 W. CHESAPEAKE AVENUE ON THE HEARING DATE.
(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.
(3) FOR INFORMATION CONCERNING THE FILING AND/OR HEARING, CONTACT THIS OFFICE AT 887-3391.

July 5, 1994

NOTICE OF REASSIGNMENT

CASE NUMBER: 94-512-SPHA (Item 498)
10928 Red Lion Road
N/S Red Lion Road at Proctor Avenue
11th Election District - 5th Councilmanic
Petitioner(s): Francis Medwig
HEARING DATE: WED., JULY 20, 1994 at 10:00 a.m., Rm. 118 Old Courthouse

Special Hearing to permit access to the M.L. parcel through the D.R.-5.5 driveway. Variance to permit a 41-foot front setback in lieu of the required 75 feet; to permit an open projection setback of 25 feet in lieu of the required 56.25 feet; to permit 17 feet and 40 feet side yard setbacks in lieu of the required 50 feet; to permit a 17-foot proximity of a structure to a residential zone in lieu of the required 125 feet; and to permit a M.L. use within 100 feet of a residential zone line.

Arnold Jablon
ARNOLD JABLON
DIRECTOR

cc: Frances Medwig
T. Wray McCurdy, Esquire

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on Recycled Paper

July 25, 1994

NOTICE OF REASSIGNMENT

CASE NUMBER: 94-512-SPHA (Item 498)
10928 Red Lion Road
N/S Red Lion Road at Proctor Avenue
11th Election District - 5th Councilmanic
Petitioner(s): Francis Medwig

Special Hearing to permit access to the M.L. parcel through the D.R.-5.5 driveway. Variance to permit a 41-foot front setback in lieu of the required 75 feet; to permit an open projection setback of 25 feet in lieu of the required 56.25 feet; to permit 17 feet and 40 feet side yard setbacks in lieu of the required 50 feet; to permit a 17-foot proximity of a structure to a residential zone in lieu of the required 125 feet; and to permit a M.L. use within 100 feet of a residential zone line.

HEARING DATE: FRIDAY, AUGUST 12, 1994 at 9:00 a.m. Rm. 106 County Office Bldg.

Arnold Jablon
ARNOLD JABLON
DIRECTOR

cc: Francis Medwig
T. Wray McCurdy, Esq.
Norman Lauenstein, Esq.
Norma and George Kellner

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on Recycled Paper

July 6, 1994

T. Wray McCurdy, Esquire
101 Eastern Boulevard
Baltimore, Maryland 21220

RE: Case No. 94-512-SPHA, Item No. 498
Petitions for Special Hearing and Variance
Petitioner: Francis Medwig

Dear Mr. McCurdy:

The Zoning Plans Advisory Committee (ZAC) has reviewed the plans submitted with the above-referenced petition, which was accepted for filing on June 16, 1994 and scheduled for a hearing accordingly. Any attached comments from a reviewing agency are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties, i.e., zoning commissioner, attorney and/or the petitioner, are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case.

Any comments submitted thus far from the members of ZAC that offer or request information on your petition are attached. Only those comments that are informative will be forwarded to you; those that are not informative will be placed in the hearing file.

The following comments are related only to the filing of future zoning petitions and are aimed at expediting the petition filing process with this office.

1. The director of Zoning Administration and Development Management has instituted a system whereby seasoned zoning attorneys who feel that they are capable of filing petitions that comply with all aspects of the zoning regulations and petitions filing requirements can file their petitions with this office without the necessity of a preliminary review by zoning personnel.

Ms. Charlotte Minton
Zoning Administration and
Development Management
County Office Building
Room 109
111 W. Chesapeake Avenue
Towson, Maryland 21204

Re: Baltimore County
Item No. 94-512-SPHA (Item 498)

Dear Ms. Minton:

This office has reviewed the referenced item and we have no objection to approval as it does not access a State roadway and is not effected by any State Highway Administration project.

Please contact Bob Small at 410-333-1350 if you have any questions.

Thank you for the opportunity to review this item.

Very truly yours,

John Contestabile
John Contestabile, Chief
Engineering Access Permits
Division

BS/

My telephone number is _____
Maryland Relay Service for Impaired Hearing or Speech
1-800-735-2258 Statewide Toll Free

Mailing Address: P.O. Box 717 • Baltimore, MD 21203-0717
Street Address: 707 North Calvert Street • Baltimore, Maryland 21202

DATE: 06/22/94

Arnold Jablon
Director
Zoning Administration and
Development Management
Baltimore County Office Building
Towson, MD 21204
MAIL STOP-1105

RE: Property Owner: SEE BELOW

LOCATION: SEE BELOW

Item No.: SEE BELOW

Zoning Agenda:

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

B. The Fire Marshal's Office has no comments at this time.
IN REFERENCE TO THE FOLLOWING ITEM NUMBERS: 493, 494, 495, 496, 497, 498, 499, 500 AND 501.

RECEIVED
JUN 23 1994

ZADM

REVIEWER: LT. ROBERT P. SHERWOLD
Fire Marshal Office, PHONE 887-4881, HS-1102F

cc: File

Printed on Recycled Paper

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Zoning Administration &
Development Management

FROM: Pat Keller, Director
Office of Planning and Zoning

DATE: July 1, 1994

SUBJECT: 10928 Red Lion Road

INFORMATION:

Item Number: 498

Petitioner: Francis Medwig

Property Size: _____

Zoning: M.L./D.R. 5.5

Requested Action: _____

Hearing Date: 7/7

SUMMARY OF RECOMMENDATIONS:

Based upon the information provided, staff offers the following comments:

Due to concerns regarding sight distance to the north along Red Lion Road, staff recommends that prior to any final consideration of this matter, the results of an inspection by Traffic Engineering be forwarded to the Hearing Officer for review.

Should the request be granted, the following conditions should be attached:

1. The equipment parking area should be screened by landscaping and/or an attractive wood fence to screen the property from the adjacent dwellings on Proctor Avenue (i.e., 10828 and 10829 Proctor Avenue).
2. The existing gravel drive and the equipment parking area should be improved with a durable and dustless surface.

Prepared by: *Jeff Long*

Division Chief: *Gary Kern*

PK/JL:lw

RECEIVED
JUL 14 1994

ZADM

ZAC, 498/PZCNE/ZAC1

Pg. 1

July 14, 1994

T. Wray McCurdy, Esquire
101 Eastern Boulevard
Baltimore, Maryland 21220

RE: Case No. 94-512-SPHA, Item No. 498
Petitions for Special Hearing and Variance

Dear Mr. McCurdy:

Enclosed are copies of comments received from the Office of Planning and Zoning on July 13, 1994 for the above-referenced case.

If there are any questions, please do not hesitate to call me at 887-3391.

Sincerely,

Charlotte Minton
Charlotte Minton

Enclosure

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on Recycled Paper

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning
Suite 113 Courthouse
400 Washington Avenue
Towson, MD 21204

September 15, 1994

(410) 887-4386

T. Wray McCurdy, Esquire
101 Eastern Boulevard
Baltimore, Maryland 21220

RE: Petitions for Special Hearing and Variance
Case No. 94-512-SPHA
Frances Midwig, Petitioner

Dear Mr. McCurdy:

Enclosed please find the decision rendered in the above captioned case. The Petitions for Special Hearing and Zoning Variance have been granted, with restrictions, in accordance with the attached Order.

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal within thirty (30) days of the date of the Order to the County Board of Appeals. If you require additional information concerning filing an appeal, please feel free to contact our Appeals Clerk at 887-3391.

Very truly yours,

Lawrence E. Schmidt
Zoning Commissioner

LES:mmm

att.

cc: Ms. Frances Midwig
cc: Mrs. Norma Lee Kellner
cc: Norman Lauenstein, Esquire
cc: Mr. and Mrs. Adam E. Paul, Sr., White Marsh Community Assoc.

Petition for Special Hearing to the Zoning Commissioner of Baltimore County for the property located at 10928 Red Lion Road, Baltimore, MD 21162

which is presently zoned ML DR 5.5

This Petition shall be filed with the Office of Zoning Administration & Development Management. The undersigned, legal owner(s) of the property situated in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing under Section 500.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner should approve.

Access to the ML Parcel is only possible through the DR 5.5 Drive Way. Due to the contour of the property, A Special Hearing is required to permit this condition per section 102.6.A.3 of the zoning Office Policy Manual.

Property is to be posted and advertised as prescribed by Zoning Regulations. I, or we, agree to pay expenses of above Special Hearing advertising, posting, etc., upon filing of this petition, and further agree to and be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Contact Purchaser/Leasee

(Type or Print Name)

Signature

Address

City

State

Zipcode

Signature

Address

City

State

Zipcode

Signature

Address

City

State

Zipcode

Signature

Address

City

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City

State

Zipcode

Signature

Address

City

State

Zipcode

Petition for Variance to the Zoning Commissioner of Baltimore County for the property located at 10928 Red Lion Road, Baltimore, MD 21162

which is presently zoned ML DR 5.5

This Petition shall be filed with the Office of Zoning Administration & Development Management. The undersigned, legal owner(s) of the property situated in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section(s) 243.1 and 301.1 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner should approve. Also, a Variance of 243.2 of the Zoning Regulations for a 17' and 40' side yard setback in lieu of the required 30'. Also, a Variance of 243.4 for a 17' proximity of a structure to a residential zone in lieu of the required 125' and a ML use within 100' of a residential zone line, of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County, for the following reasons: (Indicate hardship or practical difficulty)

Will explain at hearing.

Property is to be posted and advertised as prescribed by Zoning Regulations. I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Contact Purchaser/Leasee

(Type or Print Name)

Signature

Address

City

State

Zipcode

Signature

Address

City

State

Zipcode

Signature

Address

City

State

Zipcode

Signature

Address

City

State

Zipcode

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State

Zipcode

Signature

Address

City

State

ZONING DESCRIPTION OF
10928 RED LION ROAD

94-512-SPHA

Beginning at a point in the North side of Red Lion road. Thence the following courses and distances:

N 31° 18' 07" W 250.15', N 52° 56' 56" E 196.39',
S 34° 58' 07" E 194.87', S 33° 13' 53" W 85.03',
S 42° 12' 53" W 136.71' to the place of beginning
as recorded in Deed Liber 7234, Folio 201.

Containing 46027.59 sq.ft. The DR 5.5 portion contains 29743.81 sq.ft., and the ML portion contains 16283.78 sq.ft. Also known as 10928 Red Lion road and located in the 14th Election District.

Joanne J. Hastings

CERTIFICATE OF POSTING ZONING DEPARTMENT OF BALTIMORE COUNTY Towson, Maryland

District: 11th Date of Posting: 7/14/94
Posted for: Special Hearing & Variance
Petitioner: Frances Midwig
Location of property: 10928 Red Lion Rd., N/A
Location of Sign: Along the driveway, on property being taken
Remarks: N/A
Posted by: M. Schmidt
Number of Signs: 2

CERTIFICATE OF POSTING ZONING DEPARTMENT OF BALTIMORE COUNTY Towson, Maryland

District: 11th Date of Posting: 7/22/94
Posted for: Special Hearing & Variance
Petitioner: Frances Midwig
Location of property: 10928 Red Lion Rd., N/A
Location of Sign: Along the driveway, on property being taken
Remarks: N/A
Posted by: M. Schmidt
Number of Signs: 1

CERTIFICATE OF PUBLICATION

TOWSON, MD., July 1, 1994

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once per week of 1 successive weeks, the first publication appearing on June 30, 1994

THE JEFFERSONIAN,
A. HENNINGSON
LEGAL AD. - TOWSON

NOTICE OF HEARING
The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204 on the following date and time:
Date: July 19, 1994 at 11:00 a.m.
Time: 11:00 a.m. to 12:00 p.m.
Location: Room 106, County Office Building, 111 W. Chesapeake Avenue, Towson, Maryland 21204

Special Hearing to permit access to the M.L. parcel through the D.R. 5.5 driveway. Variance to permit a 41-foot front setback in lieu of the required 75 feet; to permit an open projection setback of 25 feet in lieu of the required 36.25 feet; to permit 17 feet and 40 feet side yard setbacks in lieu of the required 50 feet; to permit a 17-foot proximity of a structure to a residential zone in lieu of the required 125 feet; and to permit a M.L. use within 100 feet of a residential zone line.

Lawrence E. Schmidt
Zoning Commissioner for Baltimore County

NOTICE: (1) Hearings are handicapped accessible; for special accommodations please call 887-3391.
(2) For information concerning the file and/or hearing, please call 887-3391.

Baltimore County
Zoning Administration & Development Management
211 West Chesapeake Avenue
Towson, Maryland 21204

Date: 16 June 94

DAN D M DWG - 10928 Red Lion Rd

CSPH 250

CV 350

2 signs 70

570.00

Please Make Checks Payable To: Baltimore County

\$570.00

Cashier Validation

Account: ROC1-6130

Number: 498

CAM

111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

ZONING HEARING ADVERTISING AND POSTING REQUIREMENTS & PROCEDURES

Baltimore County Zoning Regulations require that notice be given to the general public/neighborhood property owners relative to property which is the subject of an upcoming zoning hearing. For those petitions which require a public hearing, this notice is accomplished by posting a sign on the property and placement of a notice in at least one newspaper of general circulation in the County.

This office will ensure that the legal requirements for posting and advertising are satisfied. However, the petitioner is responsible for the costs associated with these requirements.

PAYMENT WILL BE MADE AS FOLLOWS:

- 1) Posting fees will be assessed and paid to this office at the time of filing.
- 2) Billing for legal advertising, due upon receipt, will come from and should be remitted directly to the newspaper.

NON-PAYMENT OF ADVERTISING FEES WILL STAY ISSUANCE OF ZONING ORDER.

ARNOLD JABLON, DIRECTOR

For newspaper advertising:

Item No.: 498

Petitioner: Frances A. Midwig

Location: 10928 Red Lion Rd

PLEASE FORWARD ADVERTISING BILL TO:

NAME: Frances Midwig

ADDRESS: 917 N. Iris Ave

Baltimore Md 21205

PHONE NUMBER: 410-732-5529

AJ:ggg

(Revised 04/09/93)

TO: PUTNAM PUBLISHING COMPANY

June 30, 1994 Issue - Jeffersonian

Please forward billing to:

Francis Midwig

917 N. Iris Avenue

Baltimore, Maryland 21205

732-5529

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204 on the following date and time:

Date: July 19, 1994 at 11:00 a.m.

Time: 11:00 a.m. to 12:00 p.m.

Location: Room 106, County Office Building, 111 W. Chesapeake Avenue, Towson, Maryland 21204

CASE NUMBER: 94-512-SPHA (Item 498)

10928 Red Lion Road

N/S Red Lion Road at Proctor Avenue

11th Election District - 5th Councilmanic

Petitioner(s): Frances Midwig

HEARING DATE: TUESDAY, JULY 19, 1994 at 11:00 a.m., Rm. 118, Old Courthouse

Special Hearing to permit access to the M.L. parcel through the D.R. 5.5 driveway. Variance to permit a 41-foot front setback in lieu of the required 75 feet; to permit an open projection setback of 25 feet in lieu of the required 36.25 feet; to permit 17 feet and 40 feet side yard setbacks in lieu of the required 50 feet; to permit a 17-foot proximity of a structure to a residential zone in lieu of the required 125 feet; and to permit a M.L. use within 100 feet of a residential zone line.

LAWRENCE E. SCHMIDT

ZONING COMMISSIONER FOR BALTIMORE COUNTY

NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3391.

(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, PLEASE CALL 887-3391.

IN RE: PETITIONS FOR SPECIAL HEARING & ZONING VARIANCE
N/S Red Lion Road at Proctor Avenue
10928 Red Lion Road
11th Election District
5th Councilmanic District
Frances Midwig
Petitioner

* BEFORE THE
* ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 94-512-SPHA

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner on Petitions for Special Hearing and Variance for the property located at 10928 Red Lion Road in the Cowenton/White Marsh section of Baltimore County. Special Hearing relief is requested to approve access to the M.L. zoned portion of the property through a driveway located on the D.R.5.5 part of the site, pursuant to Sections 500.7 of the Baltimore County Zoning Regulations (BCZR) and 102.6.A.3. of the Zoning Commissioner's Policy Manual. As to the variance, relief is requested from Sections 243.1 and 301 of the BCZR to allow a 41 ft. front yard setback in lieu of the required 75 ft. and an open projection setback of 25 ft. in lieu of the required 56.25 ft., also for the front yard. Additionally, a variance from Section 243.2 is requested to allow side yard setbacks of 17 ft. and 40 ft. in lieu of the required 50 ft. Lastly, variance relief from Section 243.4 and 253.4 of the BCZR is sought for a 17 ft. proximity of a structure to a residential zone in lieu of the required 125 ft. and an M.L. use within 100 ft. of a residential zoned line. All of the subject property and requested relief are more particularly shown on Petitioner's Exhibit No. 1, the plat to accompany the Petitions for Special Hearing and Zoning Variance.

Appearing at the requisite public hearing was the property owner, Frances Midwig. Also present were other members of her family, including Norman Midwig, Lisa Midwig and David R. Midwig. Margaret Horner also ap-

peared in support of the Petition. The Petitioner was represented by T. Wray McCurdy, Esquire. Several residents from the surrounding locale also appeared and testified. They included George S. Kellner and Norma Kellner, his wife, who reside immediately across the street, and Sarah E. Paul and Adam E. Paul, Sr. from the White Marsh Community Association. The Protestants were represented by Norman Lauenstein, Esquire.

Lorne Hastings, a Registered Land Surveyor, who prepared the site plan, testified and presented that plan. He indicated that the subject property is split zoned, D.R.5.5 and M.L. The D.R.5.5 portion of the tract contains 29,743 (+/-) sq. ft. and the M.L. portion contains 16,283 sq. ft. (+/-). The total tract is 1.057 acres in area. The property is roughly a rectangularly shaped property which has frontage on Red Lion Road. As noted above, the site is located in White Marsh/Cowenton not far from Ebenezzer Road and Pulaski Highway. The D.R.5.5 portion of the property is improved with a two story dwelling. The M.L. portion of the site is improved by a two story 20 ft. x 30 ft. garage. As to the topography, the site has a severe slope, falling away from its frontage on Red Lion Road. Vehicular access to the property is by way of a shared driveway on the site's west side. This driveway leads from the western property line behind the two story dwelling and across the D.R.5.5 part of the property. It extends onto the M.L. section of the site, which comprises the eastern one-third of the lot and ends at the aforementioned two story dwelling.

As to the zoning variances, Mr. Hastings offered several comments. As shown on the plan, the side yard setback distances, which are the subject of the variance request, are measured from the garage. On the west side, there exists a 40 ft. distance from the building envelope to the property line in lieu of the required 50 ft. It is to be noted that the adjoin-

ing property on that side of the subject site is owned by SPM Construction Company and is zoned M.L. It is used as a heavy equipment storage yard. On the other side of the garage, towards the east, the side yard measures 17 ft. However, this is misleading in that the distance is measured from the building envelope to the zoning line which bisects this property. Thus, the variance on that side is clearly interior in nature and is not measured to an adjoining property. Both of these variances are justified in view of the character of the adjoining property and split zoning of the subject site.

As to the front yard setbacks, they are measured from the front of the existing building envelope of the garage to the property's front boundary on Red Lion Road. In this respect, a 41 ft. setback is requested for the enclosed portion of the garage and 25 ft. setback is requested for a porch (open projection) which exists from the front of the property. In this respect, Mr. Hastings observed the significant slope of the property. He noted that the subject garage was barely visible from the houses across the street on Red Lion Road because of this slope and opined that this site feature justified the variance..

The final series of variances are also somewhat unusual in that they also relate to the 17 ft. distance from the garage to the zoning line which bisects this property. As is the case with the side yard setback, this is the distance from the garage to the zoning line, which is situated between the garage and dwelling. Moreover, the structure which lies within 100 ft. of the residential zone line is the aforementioned garage and the most affected residence is the two story dwelling on the Midwig lot. Clearly, these variances are internal in nature and caused by the split zoning of the property.

As to the Petition for Special Hearing, same is requested pursuant to Section 500.7 of the BCZR and Section 102.6.A.3 of the Zoning Commissioner's Policy Manual. That section regulates access to an M.L. zoned parcel through a D.R. zone. In this respect, Mr. Hastings again observed the severe slope of the property from at its frontage on Red Lion Road. He testified that direct access from that road would be difficult because of the slope and the limited site distances. Also, if access were created directly from Red Lion Road to the M.L. portion, same could be detrimental to the residences across the street.

Frances Midwig also testified. She corroborated the testimony as outlined above which was offered by Mr. Hastings. She also described the use of the property. She noted that the house is an old farm house and, although no longer residing there, she and her family have lived there for many years. Presently, the dwelling is occupied by her two brothers. She also noted that there was an old barn on the property at one time in which old cars, tractors and similar heavy equipment was kept. The two story garage was built approximately 10 years ago and replaced the garage which was in a state of disrepair.

Norman Midwig also testified. He indicated that he and his wife own and operate a business known as Midwig's Clean-a-Lot, Inc. The business cleans parking lots and performs janitorial services for hire. In terms of equipment, it utilizes two sweepers, a bobcat and three trucks, which are stored on the M.L. portion of this site. He described the dimensions of the vehicles involved and testified that there would be no storage of any of these vehicles between the front of the garage and Red Lion Road. Moreover, he noted that the garage presently has other equipment and vehicles including motorcycles owned by his brother. On cross examination, he also

fully explained the nature of his work and the activity which goes on at the site.

Testifying in opposition was Norma L. Kellner, a long time resident who resides across the street. She acknowledged that a school bus business operated off of the subject site several years ago. She specifically objects to the repair work which is being done on the property and the in and out traffic generated from the site. She also fears the commercialization of the subject area and is concerned that her residential property will be disturbed by commercial activity nearby. Sarah Paul also testified in opposition to the request as President of the White Marsh Community Association. Essentially, her testimony was in opposition of any encroachment on the residential locale.

As to the zoning variances, same must be adjudged in accordance with the standards offered in Section 307.1 of the BCZR. Therein, the Petitioner must address a three pronged test in order for the variances to be granted. First, the Petitioner must demonstrate that a practical difficulty exists if strict adherence to the regulations was required. Secondly, variance relief can be granted only if same is within the spirit and intent of the zoning regulations. Lastly, there can be no detriment to the surrounding locale.

In applying the facts of this case to the standards, I am persuaded that the variances should be granted. As to the front and side yard setbacks, certain of the distances involved are of little practical effect in that they are measured from the internal zoning line and not the property line. As to the other distances, the site constraints, including the property's topography and neighboring uses are significant. There is a significant slope from the front of the property line which certainly lessens the

visual effect of the placement of the garage near Red Lion Road. Moreover, the commercial/business use to the east renders the variance from 40 ft. in lieu of 50 ft. variance to the west of little impact. Likewise, the fact that this property is split zoned necessitates the distance of the structure to the residential zone and the use within the 100 ft. residential zone line buffer. As the Petitioner testified, the most affected dwelling is on the subject property and owned by the Midwigs.

As to the special hearing relief, I am, likewise, persuaded to grant same. This in large measure is necessary to legitimize an existing situation. I am also persuaded by the testimony of Mr. Hastings that direct access from Red Lion Road to the M.L. portion of the site would be dangerous in view of the limited site distance.

Notwithstanding my approval of the subject Petitions, I am inclined to incorporate certain restrictions as conditions precedent to the relief granted. These conditions are issued pursuant to Section 26-127(c) of the County Code. First, I shall adopt the Zoning Plans Advisory Committee comment offered by the Office of Planning and Zoning. This comment suggests that landscaping and/or fencing be added to screen the property from adjacent dwellings. In this regard, I will require approval of a landscape plan by the County's Landscape Architect. Also, the driveway shall be improved with a durable and dustless surface to prevent dust and dirt from leaving the site and adversely affecting nearby properties.

Also, some provision should be made to ensure that the operation of the business on the M.L. portion of the site does not adversely affect the neighborhood. In this regard, I will prohibit any repairs to the commercial vehicles from being made on the site earlier than 9:00 A.M. and no later than dusk, and on Monday thru Friday, only. Moreover, commercial

vehicles kept on site shall be limited to those identified in the testimony and/or the replacements of same, for so long as same are not larger. These vehicles are identified as two sweepers, a bobcat, three trucks and a utility trailer.

Pursuant to the advertisement, posting of the property, and public hearing on these Petitions held, and for the reasons given above, the relief requested should be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner of Baltimore County this 15th day of September 1994, that, pursuant to the Petition for Special Hearing, approval to access the M.L. zoned portion of the property through a driveway located on the D.R.5.5 part of the site under Sections 500.7 of the Baltimore County Zoning Regulations (BCZR) and 102.6.A.3. of the Zoning Commissioner's Policy Manual, be and is hereby GRANTED; and,

IT IS FURTHER ORDERED that a variance from Sections 243.1 and 301 of the BCZR to allow 41 ft. front yard setback, in lieu of the required 75 ft., and an open projection setback of 25 ft., in lieu of the required 56.25 ft., also for the front yard, be and is hereby GRANTED; and,

IT IS FURTHER ORDERED a variance from Section 243.2 to allow side yard setbacks of 17 ft. and 40 ft., in lieu of the required 50 ft., be and is hereby GRANTED; and,

IT IS FURTHER ORDERED that a variance from Section 243.4 and 253.4 of the BCZR is sought for a 17 ft. proximity of a structure to a residential zone, in lieu of the required 125 ft., and an M.L. use within 100 ft. of a residential zoned line, be and is hereby GRANTED, subject, however, to the following restrictions which are conditions precedent to the relief granted herein:

1. The Petitioner is hereby made aware that proceeding at this time is at her own risk until

such time as the 30 day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioner would be required to return, and be responsible for returning, said property to its original condition.

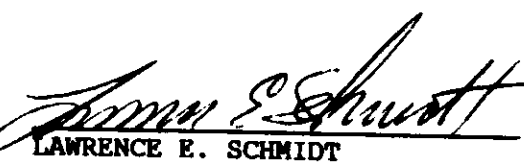
2. The Petitioner shall comply with all requirements of the Zoning Plans Advisory Committee (ZAC) as set forth in their comment submitted by the Office of Planning and Zoning dated July 1, 1994 attached hereto and made a part hereof.

3. The Petitioner shall provide a landscape plan to the Office of Planning and Zoning for approval by the Baltimore County Landscape Architect for approval. The approved landscape plan shall become a permanent part of the record and file in this matter.

4. Repairs made to any commercial vehicles stored on the subject property shall not be performed earlier than 9:00 A.M. nor later than dusk. Also any repair work on commercial vehicles is limited to Monday through Friday, only.

5. Only the commercial vehicles described at the public hearing for this case shall be permitted to be stored on the property. These vehicles are identified as two sweepers, a bobcat, 3 trucks and a utility trailer.

6. Upon request and reasonable notice, the Petitioner shall permit a representative of the Zoning Enforcement Division to make an inspection of the subject property to ensure compliance with this Order.


LAWRENCE E. SCHMIDT
Zoning Commissioner for
Baltimore County

LES:mmn